

gan—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BEALL of Texas: Paper to accompany bill for relief of estate of John H. Bussell—to the Committee on War Claims.

By Mr. BUTLER of Pennsylvania: Petition of East White-land Presbyterian Church and the Missionary Society of the Presbyterian Church of Honeybrook, Pa., for an amendment to the Constitution abolishing polygamy—to the Committee on the Judiciary.

By Mr. COOPER of Pennsylvania: Petition of the Commercial, Meyersdale, Pa., for an amendment to the postal laws making legitimate all subscriptions by others than the recipients of the paper—to the Committee on the Post-Office and Post-Roads.

Also, petition of William L. Newcomer, master of Grange No. 785, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. DALZELL: Petition of T. Morgan Silvery, of Wilkensburg, Pa., for an amendment to the postal laws making legitimate all subscriptions paid for by others than the recipients—to the Committee on the Post-Office and Post-Roads.

By Mr. DAVIS of West Virginia: Paper to accompany bill for relief of James H. Hooe—to the Committee on War Claims.

By Mr. GAINES of Tennessee: Paper to accompany bill for relief of Mary W. Humphrey—to the Committee on Pensions.

By Mr. GRANGER: Petition of the Rhode Island Chapter of the American Institute of Architects, for forest reservations in the White Mountains and the Southern Appalachian Mountains (previously referred to the Committee on Rivers and Harbors)—to the Committee on Agriculture.

By Mr. HEDGE: Petition of the Louisa County (Iowa) Sabbath School Convention, against Sunday opening of the Jamestown Exposition—to the Select Committee on Industrial Arts and Expositions.

By Mr. HOWELL of New Jersey: Petition of George G. Worthley, of Matawan, N. J., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of H. F. Hagaman, of Lakewood, N. J.; E. H. Woolston, of Ocean Grove, N. J., and P. Hall Packer, of the Sea Bright News, for an amendment to the postal laws making legitimate all subscriptions paid for by others than the recipients of newspapers—to the Committee on the Post-Office and Post-Roads.

By Mr. JOHNSON: Paper to accompany bill for relief of Larsey Bolt—to the Committee on Pensions.

By Mr. WILLIAM W. KITCHIN: Paper to accompany bill for relief of Columbus Cot—to the Committee on Pensions.

By Mr. LESTER: Paper to accompany bill for relief of William A. Baggs—to the Committee on War Claims.

By Mr. LEVER: Paper to accompany bill for relief of Susan M. Osborn—to the Committee on Pensions.

Also, paper to accompany bill for relief of Sarah C. A. Scott—to the Committee on Pensions.

By Mr. LINDSAY: Petition of R. J. Caldwell, of the American Civic Association, for a forest reservation of the Southern Appalachian Mountains—to the Committee on Agriculture.

By Mr. PATTERSON of South Carolina: Paper to accompany bill for relief of Sarah Louisa Sheppard—to the Committee on Pensions.

By Mr. SMITH of Maryland: Resolution of the board of directors of the Maryland Penitentiary, against the pending legislation to restrict interstate transportation of prison-made goods—to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany bill for relief of Littleton D. Davis—to the Committee on Invalid Pensions.

Also, petitions of Stewart & Jarrell, of Hillsboro; J. R. Travers, of Nanticoke; J. B. Andrews & Co., Wright & Carter, and O. R. Wright & Co., of Harlock; C. A. Dashiell, of Princess Anne County; Zorah H. Brinsfield, of Eldorado; W. T. Tryer, of Colora; L. S. Fleckenstein, of Easton; Robert M. Messick, of Bethlehem; Milton L. Veasey, of Pocomoke City; W. A. Kirby, of Trappe; Wilson & Merrick, of Ingleside; S. Frank Dashiell, of Dames Quarter; M. L. Weaver, of Greensboro; W. F. Messick, of Allen; Otis M. Hignutt, of Williston; Walter W. Wright & Co., of Choptank; J. W. S. Webb, of Vienna; H. Nullte, of Andersonstown; A. Phillips & Co., L. B. Phillips & Co., and the Phillips Packing Company, of Cambridge; L. A. Insley & Bros., of Wingate; Harry A. Roe, of Denton; T. E. Spedden & Co., of James; N. H. Fooks & Co., J. Frank Lednum, R. I. Lednum, and Dennis & Carroll, of Preston, all in Maryland, for an amendment to the pure-food bill to exempt canned

goods from being stamped in terms of weight and measure—to the Committee on Interstate and Foreign Commerce.

By Mr. TALBOTT: Petitions of Washington Camps Nos. 45 and 16, of Baltimore; No. 5, of Westminster; No. 12, of Unionville; No. 39, of Harney; No. 10, of Tyrone, and Nos. 23 and 27, of Baltimore, Patriotic Order Sons of America, all in Maryland, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

SENATE.

THURSDAY, May 10, 1906.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. NELSON, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

TRADE CONDITIONS IN CUBA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting the report of Charles M. Pepper, special agent of the Department of Commerce and Labor, on trade conditions in the island of Cuba; which, with the accompanying paper, was referred to the Committee on Relations with Cuba, and ordered to be printed.

FRENCH SPOILATION CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relative to the vessel brig *Rebecca*, John B. Thurston, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. C. R. McKENNEY, its enrolling clerk, announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

S. 1975. An act granting an increase of pension to Mary E. Dugger;

S. 2140. An act to authorize the Postmaster-General to dispose of useless papers in post-offices;

S. 2801. An act to withhold from sale a portion of Fort Brady, Military Reservation, at Sault Ste. Marie, Mich.;

S. 3436. An act to provide for the settlement of a claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with the St. Marys Falls Ship Canal;

S. 3522. An act to amend an act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905;

S. 5203. An act granting to the Chicago, Milwaukee, and St. Paul Railway Company, of Montana, a right of way through the Fort Keogh Military Reservation, in Montana, and for other purposes;

S. 5537. An act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska;

S. 5572. An act to amend section 4348 of the Revised Statutes, establishing great coasting districts of the United States;

S. 5683. An act to provide for the removal of derelicts and other floating dangers to navigation;

S. 5890. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and Halston River, in the States of Virginia and Tennessee;

S. 5891. An act to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Halston River, in the States of Virginia and Tennessee; and

S. 5943. An act to authorize the Minnesota, Dakota and Pacific Railway Company to construct a bridge across the Missouri River.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the American Scenic and Historic Society, of New York City, N. Y., praying that an appropriation be made for the erection of a monument to Maj. John Wesley Powell, the explorer, and his companions, at some place near the Grand Canyon of the Colorado River, in Arizona; which was referred to the Committee on the Library. He also presented a petition of the Council of Jewish Women of Chicago, Ill., praying that an appropriation be made for a

scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

Mr. NELSON presented a petition of Local Union No. 106, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Duluth, Minn., and a petition of sundry citizens of Milroy, Minn., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. KEAN presented petitions of sundry citizens of Lakewood, Sea Bright, Clinton, Ocean Grove, Camden, and Trenton, all in the State of New Jersey, praying for the adoption of a certain amendment to the postal laws relative to newspaper publications; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Harry C. Runjin, of Plainfield, N. J., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented the memorial of Mrs. R. W. Smith, of Spring Lake, N. J., remonstrating against the enactment of legislation to transfer from the Bureau of Education the education and care of the Indians and Eskimos of Alaska to the governor of that Territory; which was referred to the Committee on Territories.

He also presented sundry petitions of citizens of Montclair, N. J., praying for the enactment of legislation to establish a children's bureau in the Department of the Interior; which were referred to the Committee on Education and Labor.

Mr. BURNHAM presented petitions of Rev. George L. Mason and George A. Sanborn, of Rochester, and of the Granite State Automobile Club, of Manchester, in the State of New Hampshire, and of Jackson Demory, of Ithaca, N. Y., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a petition of the Monday Club of Rochester, N. H., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented the petition of John Sebastian, passenger traffic manager of the Rock Island Railroad system, of Chicago, Ill., praying for the enactment of legislation to authorize the Secretary of Agriculture to investigate systems of farm management, and making appropriations therefor, and for other purposes; which was referred to the Committee on Agriculture and Forestry.

Mr. BURKETT presented sundry papers to accompany the bill (S. 5966) granting an increase of pension to C. C. Davis; which were referred to the Committee on Pensions.

Mr. HOPKINS. I present a protest against an amendment which was adopted yesterday on the rate bill, and I ask that it be read.

The VICE-PRESIDENT. The Senator from Illinois asks for the reading of a dispatch which he sends to the desk. Without objection, the Secretary will read it.

The Secretary read as follows:

[Telegram.]

PEORIA, ILL., May 10, 1906.

Hon. A. J. HOPKINS,
United States Senate, Washington, D. C.:

I protest against prohibiting passes to local railroad attorneys.
J. S. STEVENS.

The VICE-PRESIDENT. The dispatch will lie on the table.

Mr. DICK. I present a number of protests from organizations of railroad men against the same proposition referred to by the Senator from Illinois. I do not ask that they be read, but will ask the Senate to consent to their being printed in the RECORD.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Ohio? The Chair hears none, and it is so ordered.

The dispatches were ordered to lie on the table, and to be printed in the RECORD, as follows:

CHICAGO JUNCTION, OHIO, May 10.

Hon. CHARLES DICK, United States Senate,
Washington, D. C.:

Over 70,000 railway employees and their families in Ohio request that you oppose the proposed amendment to rate bill pending in Senate which would prohibit railway companies issuing passes to such employees and their families.

W. T. FRANCIS,
Conductors' Legislative Representative for Ohio.

NEWARK DEPOT, OHIO, May 10, 1906.

Hon. C. F. DICK, Washington, D. C.:

Martin Lodge, Brotherhood of Railway Trainmen, 1,450 employees Baltimore and Ohio Railroad Company, request your aid in defeating

bill now before the Senate depriving our families from free transportation on railroads. We request you to vigorously protest the passage of this bill.

J. L. MONTGOMERY, General Chairman.

CHICAGO JUNCTION, OHIO, May 9, 1906.

CHARLES F. DICK,
United States Senator, Washington, D. C.:

As a grand officer, Order of Railway Conductors, representing 30,000 conductors, I request you use your influence to defeat any amendment prohibiting railroads issuing free transportation to their families.
W. H. BUDD.

NEWARK DEPOT, OHIO, May 9, 1906.

Hon. C. F. DICK,
United States Senator, Washington, D. C.:

Our division Brotherhood Locomotive Firemen, 2,450 employees Baltimore and Ohio Railroad, request you to use your influence in defeating the amendment to bill depriving our families from free transportation.

THOMAS F. ROBERTS,
General Chairman.

NEWARK DEPOT, OHIO, May 9, 1906.

Hon. CHARLES F. DICK,
United States Senator, Washington, D. C.:

As general chairman Baltimore and Ohio Railroad system, division No. 33, the Order of Railroad Telegraphers, representing 1,500 employees of the Baltimore and Ohio Railroad telegraphers' department, I earnestly solicit you oppose that part of the pending amendment to the freight regulation rate bill, wherein free transportation is denied railroad employees' families. If this amendment is passed as it now stands it simply means the curtailing of one of the very few luxuries that the railroad employees now enjoy.

E. N. VANATTA,
General Chairman.

CHICAGO JUNCTION, OHIO, May 9, 1906.

CHARLES F. DICK,
United States Senator, Washington, D. C.:

Order Railway Telegraphers protest through you against rate bill amendment forbidding passes employees' families be acted upon tomorrow.

A. R. MOORE, Chairman.

NEWARK DEPOT, OHIO, May 9, 1906.

Hon. C. F. DICK,
United States Senator, Washington, D. C.:

Licking Lodge, No. 80, International Association of Machinists, 1,350 employees Baltimore and Ohio Railroad, request your aid in defeating bill now before the Senate depriving our families from free transportation on railroads, and earnestly hope you will protest vigorously the passage of that bill.

J. E. FISHER,
District Representative.

NEWARK DEPOT, OHIO, May 9, 1906.

Hon. CHARLES F. DICK,
Washington, D. C.:

Licking division Order Railroad Conductors, 450 employees of Baltimore and Ohio Railroad, protest vigorously against the amendment to bill depriving our families from free transportation on railroads, and we appeal to you in hope you will use your best efforts to defeat same.

S. FULLER MOORE, Chairman.

ZANESVILLE, OHIO, May 9, 1906.

Hon. CHARLES F. DICK,
United States Senate, Washington, D. C.:

Understand proposed amendment to rate bill forbids passes to members of employee's family and to counsel not exclusively employed by railroads. Such amendment would disarrange all our contracts with employees and counsel; would be a hardship on both, and serve no good purpose. Railroads should be allowed to issue passes to local counsel regularly appointed and acting, whether exclusively employed or not, and to dependent members of their families and those of employees. Most all railroads' counsel also take other business. Proposed amendment goes too far. Hope you will resist its adoption.

F. A. DURBAN.

PLYMOUTH, OHIO, May 9, 1906.

Hon. CHARLES F. DICK,
United States Senate, Washington, D. C.:

Believing it would be gross injustice to employees if pending amendment to rate bill forbidding passes to employees' families becomes law, we earnestly request you to vote against the amendment.

O. A. FAUST,
Local Chairman Telegraphers.

NEWARK, OHIO, May 9, 1906.

Hon. C. F. DICK,
United States Senator, Washington, D. C.:

Division No. 36, Brotherhood Locomotive Engineers, 560 employees Baltimore and Ohio Railroad, earnestly appeal to you, our representative, to use your influence in defeating the amendment to bill depriving our families of free transportation on railroads.

CHAS. C. BOBO, Chairman.

Mr. PILES presented a petition of 114 citizens of Seattle, Wash., praying for an investigation into the existing conditions in the Kongo Free State; which was referred to the Committee on Foreign Relations.

He also presented petitions of Pleasant Valley Grange, Patrons of Husbandry, of St. Johns; of sundry citizens of Amboy, and of Everett Lodge, No. 281, Independent Order of Good

Templars, of Everett, all in the State of Washington, praying for the removal of the internal-revenue tax on denatured alcohol; which were referred to the Committee on Finance.

Mr. SCOTT. I have a number of petitions by wire on the same subject as the Senator from Ohio [Mr. DICK] has presented, and I ask that they be printed in the RECORD.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from West Virginia?

Mr. CULLOM. It seems to me that printing in the RECORD protests from lawyers simply is an unusual proceeding. I think we had better consent to print petitions from persons who are doing business besides lawyers, if we are to begin that course.

The VICE-PRESIDENT. Does the Senator from Illinois object to the request of the Senator from West Virginia?

Mr. CULLOM. I will not object in this case, but it seems to me it ought not to be done.

There being no objection, the dispatches were ordered to lie on the table, and to be printed in the RECORD, as follows:

WHEELING, May 10, 1906.

Senator N. B. SCOTT, *United States Senate*:

Please oppose provision in rate bill forbidding issue of passes to railroad attorneys.

ROBT. WHITE.
H. M. RUSSELL.

GRAFTON, W. VA., May 9, 1906.

Senator N. B. SCOTT, *Washington, D. C.*:

The telegraphers of West Virginia, whom I represent, earnestly protest against amendment to rate bill now pending, forbidding passes to employees' families, etc. We urgently request you to effect its defeat.

C. E. HOSLER, *Chairman*.

CLARKSBURG, W. VA., May 9, 1906.

Hon. N. B. SCOTT, *Washington, D. C.*:

Culberson amendment, forbidding passes except to counsel exclusively employed by railroads, will work much injury to railroads in this word "exclusively." Should be struck out. No one attorney can attend interest of roads in this State, and families of employees should not be excluded from benefit of passes. We think the amendment harsh and impractical. We trust you will oppose it.

JOHN BASSEL.
JOHN W. DAVIS.

HARPERS FERRY, W. VA., May 9, 1906.

Hon. Senator SCOTT, *Washington, D. C.*:

Kindly oppose amendment to rate bill relative restricting passes railroad employees and families.

C. E. MARLATT, *Chairman Telegraphers*.

CLARINGTON, W. VA., May 10, 1906.

Hon. NATHAN B. SCOTT, *Washington, D. C.*:

The Baltimore and Ohio telegraph operators protest against pending amendment to rate bill affecting free transportation for their families, and solicit your support to defeat this amendment.

M. C. RATHBUN, *Chairman*.

Mr. KEAN. I hope the Senators who have presented these numerous petitions will draw an amendment to satisfy their constituents and present it when the bill is reported to the Senate.

Mr. McLAURIN. I have a telegram, not from a lawyer, that I ask unanimous consent to have printed in the RECORD, along with the other telegrams which have been ordered printed.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Mississippi?

Mr. CULLOM. I do not object when the dispatch is from some one else as well as from lawyers, if that is to be the rule.

There being no objection, the dispatch was ordered to lie on the table, and be printed in the RECORD, as follows:

[Telegram.]

GREENVILLE, MISS., May 9, 1906.

Senators H. D. MONEY and A. J. McLAURIN,
Washington, D. C.:

Use herculean efforts to defeat Senate amendment prohibiting issuance of free transportation to families of employees and secure everlasting gratitude of a million railway employees.

J. H. ALDERSON,
Agent, Southern Railway.

Mr. BULKELEY presented a petition of 12 citizens of Bridgeport, Conn., and a petition of the Norwalk Business Men's Association and Board of Trade of Norwalk, Conn., praying for the enactment of legislation to remove the duty on denatured alcohol; which were referred to the Committee on Finance.

He also presented a petition of the Municipal Art Society of Hartford, Conn., praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was referred to the Committee on Foreign Relations.

Mr. PENROSE presented petitions of 20 citizens of Klingerstown; of Major Jennings Council, No. 367, Junior Order United

American Mechanics, of Shenandoah, and of Fairview Council, No. 89, Daughters of Liberty, of Philadelphia, all in the State of Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a petition of the Young Woman's Christian Temperance Union of Mount Washington, Pa., and a petition of 47 citizens of Allegheny, Pa., praying for the enactment of legislation providing for the closing of the Jamestown Exposition on Sunday; which were referred to the Select Committee on Industrial Expositions.

He also presented petitions of 15 citizens of Gettysburg; of Local Grange No. 58, of Wysox; of Local Union No. 380, of Lancaster; of the Backus Water Motor Company, of Philadelphia; of D. B. Maurice Grange, No. 111, of Athens; of Local Grange No. 1155, of Summit, and of Local Grange No. 507, Patrons of Husbandry, in the State of Pennsylvania, praying for the removal of the internal-revenue tax on denatured alcohol; which were referred to the Committee on Finance.

He also presented petitions of the congregation of the Presbyterian Church of Ellwood City; of the congregation of the Huntingdon Valley Presbyterian Church, of Huntingdon Valley; of the Woman's Home Missionary Society of Abington; of the congregation of the Presbyterian Church of Freeport; of the congregation of the East Whiteland Presbyterian Church, of Frazer; of the Home and Foreign Missionary Society of the congregation of the Presbyterian Church of Dunbar; of the Woman's Christian Temperance Union of Allegheny County; of the congregation of the Second Presbyterian Church of Wyalusing; of the congregation of the Second Presbyterian Church of Butler, and of the Young Woman's Christian Association of Wilkes-Barre, all in the State of Pennsylvania, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

Mr. ELKINS. I present a number of telegrams from railroad telegraphers, engineers, and members of the Brotherhood of Trainmen, protesting against the passage of the amendment to the rate bill as to passes. I will ask that one be read and that the others lie on the table.

The VICE-PRESIDENT. The Senator from West Virginia asks for the reading of a dispatch. Without objection, the Secretary will read it.

The Secretary read as follows:

[Telegram.]

GRAFTON, W. VA., May 10, 1906.

Hon. S. B. ELKINS,
Washington, D. C.:

The Brotherhood of Railroad Trainmen of West Virginia, whom I represent, earnestly protest against amendment to rate bill now pending affecting free transportation, and urgently request that you use your influence to effect its defeat, as we feel it affects our personal privileges.

W. A. MITCHELL, *Chairman*.

The VICE-PRESIDENT. The dispatches sent to the desk by the Senator from West Virginia will lie on the table.

Mr. ELKINS presented a petition of Liberty Council, No. 137, Junior Order United American Mechanics, of Bedington, W. Va., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. BEVERIDGE presented a petition of the Board of Trade of Indianapolis, Ind., praying for the passage of the so-called "Philippine tariff bill;" which was referred to the Committee on the Philippines.

He also presented a petition of the Board of Trade of Indianapolis, Ind., praying for the ratification of the Santo Domingo treaty; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Board of Trade of Indianapolis, Ind., praying for the ratification of international reciprocity treaties; which was referred to the Committee on Foreign Relations.

He also presented petitions of the congregation of the First Presbyterian Church of Hammond, of the congregation of the First Methodist Episcopal Church of Vincennes, and of the Woman's Missionary Society of the Second Presbyterian Church of Madison, all in the State of Indiana, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Goshen, Ind., praying for the enactment of legislation to remove the duty on denatured alcohol; which was referred to the Committee on Finance.

He also presented a petition of the Ladies' Social Circle of the First Baptist Church of Indianapolis, Ind., praying that an

appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

Mr. CULLOM. I present a couple of dispatches protesting against the passage of the pass provision in the railroad rate bill. I will not ask that they be printed in the Record. I do not think that is necessary.

The VICE-PRESIDENT. The dispatches presented by the Senator from Illinois will lie on the table.

REPORTS OF COMMITTEES.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (H. R. 18439) to authorize the construction of a bridge across Tallahatchie River, in Tallahatchie County, Miss., reported it without amendment.

Mr. GALLINGER, from the Committee on Commerce, to whom was referred the bill (H. R. 17982) to grant to Charles H. Cornell, his assigns and successors, the right to abut a dam across the Niobrara River on the Fort Niobrara Military Reservation, Nebr., and to construct and operate a trolley or electric railway line and telegraph and telephone line across said reservation, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. ALGER, from the Committee on Military Affairs, to whom was referred the bill (S. 1413) for the relief of Thomas J. Spencer, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

Mr. BULKELEY, from the Committee on Military Affairs, to whom was referred the bill (S. 1584) to correct the military record of Alexander Everhart, reported it with an amendment, and submitted a report thereon.

CONDEMNATION FOR RIVER AND HARBOR IMPROVEMENT.

Mr. NELSON. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 15095) authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvement at the expense of persons, companies, or corporations, to report it favorably without amendment, and I ask for its present consideration.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just read?

Mr. BACON. I could not catch the reading here. I should like to look at it for a moment.

Mr. NELSON. I wish to say to the Senator from Georgia that it is a House bill which has passed the House, and it is recommended by the War Department, and unanimously reported by the Committee on Commerce.

Mr. BACON. I do not wish to delay the bill if it is meritorious. I confess, however, that it appears to me to be a bill which must have been introduced for the purpose of meeting some particular case, as it is quite unusual in its terms. It says:

That whenever any person, company, or corporation, municipal or private, shall undertake to secure, for the purpose of conveying the same to the United States free of cost, any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, etc.

We have a law now by which whatever is needed by the Government may be condemned.

Mr. NELSON. Mr. President, it is a case where the citizens of a town agreed to give the Government the site for the river and harbor improvement, but they struck some men with whom they can not deal. The object is to authorize the Government to institute condemnation proceedings in these cases, to be paid by the parties who are to furnish the site.

Mr. BACON. I do not object to the object at all, but it is an unusual proceeding. This is really a proceeding to condemn what is for private use by the individual.

Mr. NELSON. No; it is for the benefit of the Government.

Mr. BACON. Oh, I understand that. I, of course, understand that the ultimate purpose is that the Government may have the use of it; but, if I understand the reading of the bill, it will be condemned in order that a private person may hereafter convey it to the Government. That is altogether an anomalous proceeding, so far as I have information as to any precedent or anything in harmony with the general rule of law.

Of course we recognize the fact that there can be condemnation proceedings for the benefit of the Government, but here is a case where it is provided that where a private individual desires to convey property and can not himself secure a good title to the Government he can condemn it for the purpose of

putting title in the individual, in order that he may convey to the Government. I do not think that is in contemplation of law, and that is what I understand to be the purpose of the bill.

The purpose, I have no doubt, is entirely meritorious, and I do not desire to defeat the purpose; but it occurs to me that the method by which the purpose is sought to be effectuated is not one in harmony with the requirements of the general law which authorizes a condemnation proceeding for the benefit of the Government. This is for the purpose of condemning property that the title may go into an individual who will thereafter convey it to the Government. The purpose can be effected, if it has to be condemned, by the individual paying the Government the amount of money which the Government would have to pay to condemn it. In that way he would indirectly be conveying the property.

Mr. FRYE. The bill requires him to give good and sufficient bond.

If the Senator will allow me one moment, I will state that the case is liable to arise in this way: For instance, there was a project to connect the lake at Tacoma with the Sound. The United States made an appropriation for that purpose, providing that the State of Washington or the city of Tacoma would furnish a free right of way from the lake to the shore. My recollection is that they failed, because they could not secure the free right which they wanted to the shore in every case; and there were a number of cases where they were not able to secure it.

This bill simply provides for meeting a case like that, where the Government is appropriating money for the improvement of rivers and harbors and there is a failure on the part of the State or the city to secure the right of way free to the Government. It is hardly ever an individual; I have never known an individual to have anything to do with it. The bill simply provides that the Government may institute condemnatory proceedings through the Attorney-General, that to secure the right a sufficient bond shall be provided, that the land shall be conveyed after condemnation, and that all the cost and expense shall be paid by the party. It seems to me that there could not be anything safer than that.

Mr. BACON. The Senator—

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. BACON. If the Chair will pardon me a moment, I will answer definitely.

The VICE-PRESIDENT. The Senator from Georgia will proceed.

Mr. BACON. The Senator from Maine does not meet the point of my objection. It is not that the Government may be put to expense or that the party may not carry out the agreement after the condemnation, but the point is that the bill authorizes a condemnation not for the Government, although the Government will have the ultimate benefit of it, but for an individual who is thereafter to convey to the Government. It is not a question of expense or of uncertainty as to what the party will do, but as to our right to pass a law which shall condemn property for the benefit of an individual and put the title in the name of the individual, even though he is under bond thereafter to convey to the Government.

I do not wish to delay the bill in any unreasonable manner, but I suggest to the Senator from Minnesota if he will let it go over until to-morrow, so that we can have an opportunity to examine it, it may be that it is all right. If it does go over I will ask that it go over without losing its place. It occurs to me now that there is very grave difficulty in the bill from a legal standpoint.

Mr. FRYE. I admit I do not see it myself. Both the Committee on Rivers and Harbors of the House and the Committee on Commerce of the Senate have found something to be absolutely necessary under circumstances which arise like that which I have suggested.

Mr. BACON. I suggest to the Senator that in a case such as he has instanced it is entirely competent for condemnation proceedings to be had in the name of the Government and for the Government, and then that the parties who wish to make the donation can return to the Government the amount of money which shall be awarded to the party in interest and against whom the condemnation proceedings are had. It is a very different thing and one, so far as I can now see, utterly unauthorized by the law to authorize the condemnation of property for a private individual, even though that private individual does give bond thereafter to convey to the Government.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. SPOONER. I do not see anything in the bill, when one

reads it carefully, that attempts to authorize an individual to condemn any real estate. It provides:

That whenever any person, company, or corporation, municipal or private, shall undertake to secure, for the purpose of conveying the same to the United States free of cost, any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, and shall be unable for any reason to obtain a valid title thereto—

Which means by purchase, of course. It could not mean anything else. Then it confers the jurisdiction on the Secretary of War—

the Secretary of War may, in his discretion, cause proceedings to be instituted in the name of the United States.

Mr. BACON. But if the Senator will read the bill further he will find that the contemplation is that the title shall go to the party who desires to make the donation, because there is a provision in it that he shall give bond that he will convey to the Government after the condemnation proceedings.

Mr. President, I will ask that the bill go over until to-morrow. I will not interpose any objection after I have had time to examine it, if I see that it is all right.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. BACON subsequently said: Mr. President, since House bill 15095 was before the Senate, I have had an opportunity to read it, and I find that I misunderstood the Senator from Maine in saying, as I understood him to say, that there was a bond required of the party to convey to the Government after the condemnation proceedings. I find that that is a mistake, and that the condemnation is really to be not in favor of the individual, but of the Government. I therefore withdraw my objection to the consideration of the bill.

The VICE-PRESIDENT. The bill has been read. Is there objection to its present consideration?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

STEEL LIGHT VESSEL AT ENTRANCE TO JUAN DE FUCA STRAIT.

Mr. PILES. I am directed by the Committee on Commerce, to whom was referred the bill (S. 6003) to construct and place a steel light-ship on "Forty Fathom Bank," so-called, off the entrance to the Straits of Juan de Fuca, to report it with an amendment, and I ask for its present consideration.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment of the Committee on Commerce was, in line 5, after the word "upon," to strike out the remainder of the bill and insert:

Swiftsure Bank, off the entrance to Juan de Fuca Strait, at a point at or near 13 miles north 74 degrees west, magnetic, from Cape Flattery, a steel steam light vessel, equipped with the latest improved light and fog signals, at a cost not to exceed \$150,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to construct and place a steel light vessel on Swiftsure Bank, off the entrance to Juan de Fuca Strait."

ROANOKE RIVER BRIDGE, NORTH CAROLINA.

Mr. BERRY. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 18204) to authorize the Northampton and Halifax Bridge Company to construct a bridge across Roanoke River at or near Weldon, N. C., to report it favorably without amendment.

Mr. SIMMONS. I ask unanimous consent for the present consideration of the bill just reported by the Senator from Arkansas.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JURORS IN PORTO RICO.

Mr. FORAKER. I am directed by the Committee on Pacific Islands and Porto Rico, to whom was referred the bill (S. 5512) defining the qualifications of jurors in Porto Rico, to report it favorably without amendment, and I ask for its present consideration.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just read?

Mr. HALE. Will not the Secretary read again that portion of it relating to the exemptions from jury duty?

The VICE-PRESIDENT. The Secretary will read, as requested.

The Secretary read as follows:

Provided, That the exemptions from jury duty allowed by the local law shall be respected by the court when insisted upon by veniremen.

Mr. FORAKER. I will state for the benefit of the Senator from Maine that the only purpose of the bill is to change the law so that they can select men who understand the English language for jurors in the United States courts.

Mr. HALE. Is that the only infirmity in the present law in relation to the choosing of veniremen?

Mr. FORAKER. Yes; it is practically the only one. It is the only one I know of. The bill is recommended by the judge of the United States district court for Porto Rico, by the United States district attorney for Porto Rico, and by the Attorney-General.

Mr. HALE. What are the qualifications of jurors?

Mr. FORAKER. The organic act of Porto Rico provides that the district court of Porto Rico shall have, in addition to the jurisdiction which belongs to United States district courts generally, the jurisdiction of the circuit court, and it makes applicable to Porto Rico, in so far as not locally inapplicable, the laws of the United States, among which is the statute requiring the selection of jurors to conform to the local laws, and conforming to the local laws the requirements for jurors in the local court do not exactly suit the requirements of the business in the United States district court, where it is by law required to be conducted in the English language.

Mr. HALE. That is all there is in the bill?

Mr. FORAKER. That is all there is in the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just read?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. FORAKER, the title was amended so as to read: "A bill defining the qualifications of jurors for service in the United States district court of Porto Rico."

LAKE MICHIGAN IMPROVEMENT.

Mr. HOPKINS. I am directed by the Committee on Commerce, to whom was referred the joint resolution (H. J. Res. 134) authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan, adjoining certain lands in Lake County, Ind., to report it favorably without amendment.

Mr. HEMENWAY. I ask for the immediate consideration of the joint resolution.

The Secretary read the joint resolution; and there being no objection, it was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. DICK introduced a bill (S. 6097) to regulate the keeping of employment agencies in the District of Columbia where fees are charged for procuring employment or situations; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PENROSE introduced a bill (S. 6098) granting an increase of pension to David C. Winebrener; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. ELKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 6099) for the relief of Jose Salazar y Ortiz; and
A bill (S. 6100) for the relief of the trustees of the Methodist Episcopal Church of Bunker Hill, formerly Mill Creek, W. Va. (with accompanying papers).

Mr. ELKINS introduced a bill (S. 6101) granting a pension to John Frederick; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6102) to remove the charge of desertion from the military record of Ephraim Martin and grant him an honorable discharge; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. SPOONER introduced a bill (S. 6103) granting an increase of pension to William P. Visgar; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. WARREN introduced a bill (S. 6104) to create the office of captain in the Philippine Scouts; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. SIMMONS introduced a bill (S. 6105) to correct the military record of Smith F. Carroll; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GALLINGER introduced a bill (S. 6106) granting a right of way for widening the alley connecting Nichols avenue with Hamilton road, in the District of Columbia; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

Mr. PETTUS introduced a bill (S. 6107) for the relief of Burwell J. Curry; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6108) for the relief of Dan Walden; which was read twice by its title, and referred to the Committee on Claims.

Mr. HALE introduced a bill (S. 6109) authorizing the reappointment of midshipmen recently dismissed from the Naval Academy for hazing; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. FLINT introduced a bill (S. 6110) to correct the military record of Lewis W. Crain; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WARNER introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 6111) granting an increase of pension to Thomas H. G. Lester;

A bill (S. 6112) granting an increase of pension to Hiram J. Weston; and

A bill (S. 6113) granting an increase of pension to John McLaughlin.

Mr. WARNER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 6114) to refund internal-revenue taxes paid by owners of private dies (with accompanying papers); and

A bill (S. 6115) for the relief of Margaret C. Montville.

Mr. ALGER introduced a bill (S. 6116) to correct the military record of Porter P. Misner; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 6117) granting an increase of pension to W. E. Cummin; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BURNHAM introduced a bill (S. 6118) granting an increase of pension to Reuben B. Watson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PERKINS introduced a bill (S. 6119) for the protection of animals, birds, and fish in the forest reserves of California, and for other purposes; which was read twice by its title, and referred to the Committee on Forest Reservations and the Protection of Game.

Mr. CULBERSON introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Public Buildings and Grounds:

A bill (S. 6120) for the purchase of a site for a Federal building for the United States post-office at San Marcos, Tex.; and

A bill (S. 6121) for the purchase of a site for a Federal building for the United States post-office at Nacogdoches, Tex.

Mr. CLAPP (by request) introduced a bill (S. 6122) directing the enrollment of white persons intermarried with Cherokee Indians by blood, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. BACON introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 6123) to authorize the Secretary of the Treasury to pay the claim of Mrs. Mattie Stewart Glover and Mrs. Katherine Stewart Ruse, the heirs at law and only legal representatives of the late William Stewart, of Mobile, Ala.; and

A bill (S. 6124) for the relief of the heirs of Elisha Lowry.

Mr. TELLER introduced a bill (S. 6125) for the relief of Gustav A. Hesselberger; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BEVERIDGE introduced a bill (S. 6126) granting an increase of pension to James E. Speake; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6127) granting an increase of pension to John R. Callender; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PILES introduced a bill (S. 6128) to authorize the construction of a bridge across the Pend d'Oreille River, in Stevens

County, Wash., by the Pend d'Oreille Development Company; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DICK introduced a joint resolution (S. R. 57) providing for the purchase of material and equipment for use in the construction of the Panama Canal; which was read twice by its title, and referred to the Committee on Interoceanic Canals.

Mr. ANKENY introduced a joint resolution (S. R. 58) providing for the purchase of material and equipment for use in the construction of the Panama Canal; which was read twice by its title, and referred to the Committee on Interoceanic Canals.

AID BY CUBAN GOVERNMENT TO SAN FRANCISCO SUFFERERS.

Mr. CULLOM. I present some correspondence, a letter from the Secretary of State and a letter to him from the Cuban Government. I ask that they both be read, so that they may go into the RECORD.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

DEPARTMENT OF STATE,
Washington, May 9, 1906.

Hon. SHELBY M. CULLOM,
Chairman of the Committee on Foreign Relations,
United States Senate.

SIR: In connection with the President's message of the 3d instant, referred to your committee, I have the honor to inclose for your information a copy of a dispatch from the American minister at Habana, received on the 7th instant, reporting that the House of Representatives of Cuba unanimously passed a bill appropriating \$50,000 for the San Francisco sufferers.

This information would have been communicated in the President's message of the 3d instant if it had been received in time.

I have the honor to be, sir, your obedient servant,

ELIHU ROOT.

AMERICAN LEGATION,
Habana, Cuba, May 2, 1906.

Hon. ELIHU ROOT,
Secretary of State, Washington, D. C.

SIR: On April 30 the lower house of the Cuban Congress suspended the regular course of business and approved unanimously a bill to appropriate the sum of \$50,000 from the public treasury for the relief of the San Francisco sufferers. This bill upon its introduction to the upper house was referred to the finance committee.

In view of the desire of President Roosevelt, as reported in the public press, that the American people might be accorded the privilege of attempting to alleviate the condition of their distressed fellow-citizens without extraneous aid and that assistance from abroad must therefore be declined, I availed myself of a suitable occasion to intimate to the Secretary of State that the proposal for a special grant would indicate as clearly as would the passage of the bill authorizing the appropriation Cuba's sympathy, and that it might be desirable in view of this fact for the Cuban Congress without further legislation to content itself with this expression of its benevolent intention.

I have the honor to be, sir, your obedient servant,

EDWIN V. MORGAN.

The VICE-PRESIDENT. The communications will be referred to the Committee on Foreign Relations.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CULLOM submitted an amendment providing for the application of a sum not to exceed \$1,000,000 from the indemnity fund received as reimbursement from the Chinese Government, for the purchase of ground and the erection of buildings for consular offices in China, Korea, and Japan, intended to be proposed by him to the diplomatic and consular appropriation bill; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. GALLINGER submitted an amendment providing for the acquisition of land for a public park lying east of Thirtieth street and Branch avenue and north and south of Pennsylvania avenue extended in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on the District of Columbia.

He also submitted an amendment proposing to appropriate \$100,000 for the purchase, installation, and maintenance of water meters in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

WITHDRAWAL OF PAPERS—MARY CORNELIA HAYS ROSS.

On motion of Mr. McCUMBER, it was

Ordered, That the papers filed in the office of the Secretary of the Senate, in connection with the bill S. 3935, Fifty-eighth Congress, granting an increase of pension to Mary Cornelia Hays Ross, be withdrawn, no adverse action having been taken on the same.

AFFAIRS OF M'KINLEY MANUAL TRAINING SCHOOL.

Mr. GALLINGER submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the Committee on the District of Columbia, by subcommittee or otherwise, is hereby directed to investigate, at its discre-

tion, all matters connected with the administration of the affairs of the McKinley Manual Training School, to inquire into the conduct of the scholars and the discipline of said school, and also to make such further investigation of school affairs in the District of Columbia as said committee shall deem advisable.

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. If there are no further concurrent or other resolutions, the Chair lays before the Senate the unfinished business, which is House bill 12987.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

The VICE-PRESIDENT. Unless there are further amendments to section 1 of the bill, the Secretary will read section 2.

The Secretary proceeded to read section 2, beginning on page 3 of the bill.

Mr. TILLMAN. Mr. President, I wish to offer an amendment to section 2, which is—

Mr. LODGE. I suggest that the Senator's amendment will be in order after the section shall have been read.

The VICE-PRESIDENT. After the reading of the section is concluded by the Secretary, the Chair will recognize the Senator from South Carolina [Mr. TILLMAN] for the purpose of offering his amendment.

The Secretary read section 2 of the bill, as follows:

SEC. 2. That section 6 of said act, as amended March 2, 1889, be amended so as to read as follows:

"SEC. 6. That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates, fares, and charges for the transportation of passengers and property which any such common carrier has established, and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges, icing charges, and all other charges which the Commission may require, and any rules or regulations which in any wise change, affect, or determine any part of the aggregate of such aforesaid rates, fares, and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected.

"Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public, as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production.

"No change shall be made in the rates, fares, and charges or joint rates, fares, and charges which have been established and published by any common carrier in compliance with the requirements of this section, except after thirty days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection: *Provided*, That the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

"And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

"Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates, fares, or charges for such continuous lines or routes, copies of such joint tariffs shall also in like manner be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published.

"No change shall be made in joint rates, fares, and charges, shown upon joint tariffs, except after thirty days' notice to the Commission, which shall plainly state the changes proposed to be made in the

schedule then in force and the time when the changed rates, fares, or charges will go into effect. The Commission may make public or require the carriers to make public such proposed changes in such manner as may, in its judgment, be deemed practicable and may prescribe from time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

"It shall be unlawful for any common carrier party to any joint tariff to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare, or charge is named thereon, than is specified in the schedule filed with the Commission in force at the time.

"The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged and may change the form from time to time as shall be found expedient.

"If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section or any part of the same such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal operating office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commission appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commission, as complainant, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act."

Mr. TILLMAN. Mr. President, I have sundry verbal amendments to offer to this section, which have been recommended by the Interstate Commerce Commission; which I send to the desk.

The VICE-PRESIDENT. The first amendment proposed by the Senator from South Carolina will be stated.

The SECRETARY. On page 3, line 24, after the word "shall," it is proposed to insert "file with the Commission created by this act and;" and on page 3, line 25, after the word "showing," to insert the word "all;" so as to read:

SEC. 2. That section 6 of said act, as amended March 2, 1889, be amended so as to read as follows:

"SEC. 6. That every common carrier subject to the provisions of this act shall file with the Commission created by this act and print and keep open to public inspection schedules showing all the rates, fares, and charges for the transportation of passengers, etc.

The amendment was agreed to.

Mr. TILLMAN. I now offer the amendment which I send to the desk.

The SECRETARY. On page 4, line 1, it is proposed to strike out the word "the," before the word "transportation;" and in lines 1, 2, and 3 to strike out the words "of passengers and property which any such common carrier has established and which are in force at the time upon its route," and to insert in lieu thereof the words "between different points on its own route and between points on its own route and points on the route of any other carrier by railroad or by water when a through route and joint rate have been established."

Mr. ALDRICH. Mr. President, I am afraid that the insertion of the words "or by water" may give this provision a different significance from what it now has. I do not see any occasion for using the words "or by water" in that connection.

Mr. TILLMAN. Here is a memorandum sent me by the Interstate Commerce Commission, in which they explain why that is done. I will have the memorandum read for the information of the Senate, if it is so desired.

Mr. ALDRICH. I shall be glad to have it read. Those words might make an important difference under certain conditions.

Mr. CULLOM. Let the communication from the Interstate Commerce Commission be read.

The VICE-PRESIDENT. The Secretary will read as requested, in the absence of objection.

The Secretary read as follows:

The sixth section of the present law, and as it is proposed to be substantially reenacted with a few amendments in the Hepburn bill, is framed upon no consistent or reasonable theory or plan. In its present form it results from adding onto the original section, passed in 1887, the amendments of 1889. As the section now stands, with the amendments proposed in the Hepburn bill, individual and joint rates are without any reason treated differently. As to the individual rate, there must be thirty days' public notice of change and prompt notice, whatever that may mean, of such change to the Commission. As to the joint rate, there must be thirty days' notice to the Commission, and such publicity given to the proposed change as the Commission may order. Again, as to the individual rate, the Commission has authority to vary the time of notice of any change in that rate, but as to the joint rate, the Commission can not vary the time of notice to itself of a proposed change in that rate.

There is no reason why the joint rate as to publication at stations and notice to the Commission should not stand upon the same footing

as the individual rate. So far as the public is concerned, a rate is a rate, whether it is over only one railroad or applies over two or more railroads; and as to either rate the necessity for publication is the same. If the proviso in the Hepburn bill authorizing the Commission to allow changes in the individual rate upon less than the thirty days' notice specified or to modify the requirements in relation to publishing and posting the tariffs is valuable to the public or a necessity to the carriers, it should be made to apply also to joint rates; but as above indicated, as the bill now stands the Commission has no authority to vary the requirement for thirty days' notice to the Commission of changes in joint rates. Moreover, the law should distinctly provide for the publication of joint rates, just as it does for the publication of individual rates.

A large portion of the act to regulate commerce and most of the Elkins law was framed to secure adherence to published tariffs. It follows that the provisions of the law respecting the filing and publication of such tariffs should be definite and certain as to joint rates as well as individual rates. There should also be in section 6 a distinct prohibition forbidding a carrier to receive or participate in the transportation affected by the act unless the rates, fares, and charges upon which the same is transported have been filed and published in accordance with the provisions of this section, and that the published rates shall be invariably observed.

To accomplish this purpose the Commission, in what is known as the "Commission bill," redrafted section 6 of the act to regulate commerce. Section 2 of the Hepburn bill, which aims to amend section 6 of the act to regulate commerce, should be amended as shown on the inclosed copy of the Hepburn bill.

With this will also be found a formal amendment setting forth the changes so indicated.

The first purpose of the amendment is to provide in one paragraph as well for the filing with the Commission as for the publication of all rates, whether individual or joint, and to include therein *all terminal charges, storage charges, and all special privileges or facilities granted or allowed*. This places the filing and publication of all schedules on the same footing and makes such schedules include all rates, privileges, or facilities.

Mr. TILLMAN. That is all that relates to this special amendment.

Mr. ALDRICH. There is no allusion here to the reasons for inserting the words "or by water," when the transportation may be under different conditions entirely from the conditions named in the first section of the bill.

Mr. TILLMAN. I presume that it has reference or is intended to include water transportation along with railroad transportation, or partly by railroad and partly by water, as defined at the bottom of the first page of the act.

Mr. KEAN. Mr. President—

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from New Jersey?

Mr. TILLMAN. With pleasure.

Mr. KEAN. Noticing the memorandum which has just been read from the Interstate Commerce Commission, I yesterday introduced an amendment which covers the sixth section of the act in regard to interstate commerce. The amendment that I introduced is one prepared by the Interstate Commerce Commission, and is the same as was in the Interstate Commerce Commission's bill which they presented some time since.

Mr. TILLMAN. Mention has just been made of that in the memorandum.

Mr. KEAN. With one change. I introduced that amendment yesterday, as the Senator will see, and I now offer it to this section.

Mr. TILLMAN. What is the change the Senator makes?

Mr. KEAN. The only change is in line 2, on page 2 of the amendment, where the words "icing charges" are inserted.

Mr. TILLMAN. It will save time and be perfectly agreeable to me to let the Commission's substitute which it sent in its original bill be acted upon, instead of going through the troublesome process of inserting these amendments to the Hepburn bill.

Mr. DOLLIVER. Mr. President—

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Iowa?

Mr. TILLMAN. With pleasure.

Mr. DOLLIVER. I think it is due to the committee to make a brief statement as to this section 6. The pending bill was framed to make as few changes as possible in the existing interstate-commerce law. In the bill sent to the committee by the Interstate Commerce Commission, section 6 was rewritten and everybody agreed that many valuable improvements were made in it, especially in its literary phraseology and in the clearness with which its provisions were expressed. However, it was the wish of the committee to intrude as little as possible upon the language of the interstate-commerce law in view of the fact that that law had stood for twenty years and had been reasonably effective so far as the publication of the rates was concerned. Therefore the two important suggestions of the Commission, first, in relation to the separate publication of icing charges, and, second, in relation to the discretion of the Commission to set aside the requirements of the law in special cases as to publication—with those two amendments, the original interstate-commerce law expressed with practical fullness every-

thing that the Commission appeared to desire. For that reason the committee dropped from the bill the new section 6 which the Commission had prepared, and confined itself to this slight amendment of the existing section 6.

I do not deny that the Commission's rewriting of the bill is more modern and more in consonance with present railway conditions, and I have no objection at all, with the amendment which the Senator from New Jersey has suggested—of a separate requirement for icing charges—that the section as originally framed of the interstate-commerce bill should be substituted for section 2 in the pending bill. I think it would cover all the points made by the amendments which the Senator from South Carolina has offered.

Mr. TILLMAN. To save time and a considerable amount of routine which we will have to devote to something else I am perfectly willing to accept the suggestion of the Senator from New Jersey [Mr. KEAN], that the substitute which he has offered shall go into the bill instead of my amendment of the Hepburn bill in this piecemeal way.

Mr. KEAN. Then I will offer the substitute.

The VICE-PRESIDENT. The Chair understands the Senator from South Carolina withdraws his proposed amendment, and the Senator from New Jersey proposes a substitute for the amendment.

Mr. TILLMAN. The proposed substitute strikes out all after line 22, on page 3.

Mr. LODGE. I think the amendment should be worded so as to show that it comes in after the word "follows," in line 22, because it is not section 6 of the pending bill, but section 2. It is section 6 of the old act that is proposed to be amended.

Mr. KEAN. The amendment is to come in on page 3, line 22, after the following words:

SEC. 2. That section 6 of said act, as amended March 2, 1889, be amended so as to read as follows.

The VICE-PRESIDENT. The amendment proposed by the Senator from New Jersey will be stated.

The SECRETARY. On page 3 it is proposed to strike out all after the word "follows," in line 22, down to the end of the section, and to insert in lieu thereof the following:

SEC. 6. Every common carrier subject to the provisions of this act shall file with the Commission created by this act tariffs showing all the rates, fares, and charges for transportation, as defined in the first section of this act, between points upon its own route and between points upon its own route and points upon the route of any other carrier when a through route and joint rate have been established by agreement or otherwise; and this provision shall apply when the route connecting two points in the United States passes through an adjacent foreign country and when the traffic is moving to or from any foreign country. Such tariffs shall plainly state the places between which passengers or property will be carried, shall contain the classification of freight in force, and shall also state separately all terminal charges, including storage, icing charges, and all privileges or facilities which shall be allowed other than those involved in the transportation of passengers or property, as defined in the first section of this act, in ordinary course between two definite points, and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of said rates, fares, and charges, or the value thereof, to the shipper or consignee. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements relating to any traffic or transportation affected by the provisions of this act to which it may be a party.

The carrier shall plainly print such tariffs in large type, and shall keep posted, for the use of the public, two copies in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such manner that they shall be accessible to the public and can be conveniently inspected.

No change shall be made in any tariff of rates, fares, and charges filed and published as aforesaid unless the carrier shall file with the Commission a statement showing such changes and the date when they shall take effect, and shall post new tariffs, as hereinbefore provided, or plainly indicate such changes upon those already posted, at least sixty days before the taking effect of such changes; but the Commission may, for good cause shown, allow changes upon less than sixty days' notice, and may do this either in a particular instance or by general order applicable to special conditions and species of traffic.

The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the Commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the Commission; and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

The Commission may determine and prescribe the form, subjects to be contained in, and arrangement of the tariffs required to be published and filed, as aforesaid, and may change such form, subjects, or arrangement thereof from time to time as shall be found expedient.

The Commission may, in its discretion and for good cause shown, change or modify the foregoing requirements in respect of the publishing, posting, and filing of tariffs, and may do this either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

No carrier shall, unless otherwise provided by this act, receive or participate in the transportation of passengers or property, as defined in the first section of this act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this section; nor shall any

carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

Any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production, and any law in conflict with this section is hereby repealed.

Mr. CULBERSON. Mr. President, by the courtesy of the Senator from New Jersey [Mr. KEAN], I desire to make a brief statement about a matter not concerning the amendment immediately pending.

A day or two ago an amendment which I presented prohibiting the issuance of passes was adopted by the Senate. The amendment accomplished the purposes which I had in view, but in drafting it hastily at my desk due consideration was not given to the exceptions which were made. I desire, therefore, to enter a motion to reconsider the vote by which the amendment was adopted, merely entering it, not asking to have it acted on now, however; and I will state that if that motion shall prevail I will ask to have what I send to the desk substituted in lieu of the amendment.

Mr. SPOONER. Let it be reported.

Mr. ALDRICH. I suggest to the Senator from Texas that this matter be taken up in the Senate when it is reached.

Mr. CULBERSON. I prefer to take this course, if the Senator please.

Mr. ALDRICH. Of course, if the amendment comes back in the Senate for one purpose, it comes for all purposes, and it may give rise to long discussion as to what disposition shall be made of it. I think it is much better to let it be acted upon there.

Mr. CULBERSON. I do not ask that the motion to reconsider be acted upon now.

The VICE-PRESIDENT. The Senator from Texas merely enters the motion.

Mr. CULBERSON. I merely enter the motion to reconsider.

Mr. McCREARY. I ask the Senator from Texas to state what the amendment is he proposes to change?

Mr. CULBERSON. I have already stated it; but I will state it again.

Mr. SPOONER. Let the amendment be read.

Mr. TELLER. Let it be read.

The VICE-PRESIDENT. The Secretary will read, if there be no objection.

The Secretary read as follows:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation, except to the officers, agents, and employees, and members of their immediate families, actual and bona fide attorneys, of the carrier issuing the same, to ministers of religion and inmates of hospitals and eleemosynary and charitable institutions and indigent persons. Any carrier violating this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than \$100 nor more than \$2,000.

The VICE-PRESIDENT. The motion to reconsider is entered; and the proposed amendment will be printed and lie on the table.

Mr. FORAKER. I only want to say before we pass from this matter that I hope the Senator from Texas will insist upon his motion to reconsider in Committee of the Whole, so that the matter may be determined before we report the bill to the Senate.

Mr. KEAN. Now, Mr. President, let us have a vote on my amendment.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from New Jersey.

Mr. BACON. Mr. President, I simply desire to say that it is extremely difficult for those of us who have not had the opportunity for critical examination to learn whether the substitute for section 6 is complete in all particulars that are of importance. As I understand, the amendment proposes to strike out entirely section 6 and substitute this in place of it. If that is true, I wish to ask the Senator from New Jersey whether the provision of the present bill found on page 8, beginning in line 4 and running through to page 9, concluding in line 5, is substantially incorporated in the proposed amendment?

Mr. KEAN. All I can say to the Senator from Georgia is this: The amendment was prepared by the Interstate Commerce Commission, and it was done after very careful examination, and was put into the bill which the Commission sent to the Committee on Interstate Commerce on the 28th day of last November. They very strongly advocate the amendment.

I think everything is included in it except that part of the bill to which the Senator has called attention.

Mr. BACON. That seems to me to be a very important part of this bill. It is the method by which the previous requirements of the section can be enforced. I have not had time to read carefully the Senator's amendment to see whether that is supplied in some other way.

Mr. KEAN. I think it is supplied in other parts of the bill.

Mr. BACON. It is not in other parts of the present bill, unless I am mistaken about it.

Mr. TILLMAN. If the Senator from New Jersey will permit me, I will say to the Senator from Georgia that the amendments which I proposed to insert in the Hepburn bill were prepared by the Interstate Commerce Commission, but that previously they had prepared a bill of their own, which they submitted to the Interstate Commerce Committee, but which was not adopted by anybody. In their memorandum, which was read at the desk a little while ago, they state that the present law is a kind of a composite arrangement that is more or less involved and contradictory, and in some places obscure, and that in rewriting it they had prepared a bill of their own which made it more symmetrical and clear. I accepted the substitute of the Senator from New Jersey upon the faith I have in the Commission, that they know more about it than either he or I or the Senator from Georgia.

Mr. BACON. I am very free to accord what the Senator says about myself. I do not profess to know very much about it, and have made no such professions in the Senate.

Mr. TILLMAN. I am not attempting to criticize the Senator. I can not answer his question. I do not think any man in the Senate can. We are taking it on the confidence we have in the Interstate Commerce Commission, that they understand this question, and they have suggested these amendments.

Mr. BACON. I, of course, accord to the Commission very great ability in this line, and the utmost good faith, but at the same time the responsibility is on us and not on the Commission, and I think it would be a very serious proposition that we should not only as to small isolated provisions of this bill accept their judgment, but that we should proceed to strike out four or five pages of this bill and insert something else in place of it, simply upon the ground that any persons outside of the Chamber are in favor of it.

Mr. ALDRICH. Will the Senator permit me to make a suggestion?

Mr. BACON. I will, but there is so much conversation around that it is very difficult to understand what the Senator says.

Mr. ALDRICH. I suggest that this amendment be adopted in Committee of the Whole, and then the Senator can investigate it, and he can easily make any suggested changes in the Senate if it is found not to be correct.

Mr. BACON. I do not know about that; that is not our usual method of procedure. Of course I am not in charge of the bill; I am not one of the very active agents in its consideration and discussion. I am endeavoring to gather what I can from the discussion of others, and am trying to contribute what I can to make it an effective bill. I find this, which is a very serious proposition to me, although I may be mistaken about it. On page 8, which is a part of the section proposed to be stricken out by the amendment, there are a series of provisions by which the requirements of this section are to be enforced and made effective and compulsory. Now, I ask the Senator from New Jersey this question—

Mr. KEAN. I think if you will look on page 24 of the House bill—

Mr. BACON. Page 24?

Mr. KEAN. Wait a minute.

Mr. LODGE. It is entirely covered.

Mr. KEAN. Page 8, line 24.

On page 8, lines 4 to 9 are stricken out, because the provision for mandamus is wholly covered on page 24, lines 14 to 22, inclusive.

Mr. LODGE. That covers the whole thing.

Mr. BACON. There is something more here than the mere matter of mandamus. If the Senators who have suggested this and who have looked into it are prepared to say that the provisions found on pages 8 and 9, by which alone, so far as I can see—

Mr. KEAN. I will say to the Senator that the penalties for a violation of this clause are found also in the amendment already enacted, known as the "Elkins law," and this does not repeal the Elkins law.

Mr. BACON. If that is the case, this was originally an improper provision to incorporate in the bill.

Mr. HALE. Unnecessary.

Mr. BACON. The Senator from New Jersey says it is already the law. I do not see how that can be. I do not see how the provisions of the Elkins law can properly enforce the provisions of this bill.

I do think that Senators who father it—those who advocate it—ought to be in a position at least to give us definite and positive and unambiguous explanations and opinions in regard to it, and not simply refer to somebody else. It is evident from the answers of the Senator himself and those who are endeavoring to assist in reply to that question that nobody has given careful examination—at least, nobody who has yet spoken—to this proposed amendment to see whether or not it does carefully preserve the essential features of the part of the bill which it is proposed to strike out.

Mr. DOLLIVER. Mr. President, a good many weeks ago I had the duty of examining, with some care, the changes suggested by the Interstate Commerce Commission in section 6, and I think I can say to the Senator from Georgia that the changes are mainly administrative in character and such as have been suggested by the practical experience of the Commission.

Now, as to the omission in the amendment offered by the Senator from New Jersey of any reference to—

Mr. HOPKINS. I should like to ask the Senator from Iowa a question respecting this matter. Is the proposed amendment of the Senator from New Jersey an amendment that was prepared by the Commission prior to the reporting of this bill to the Senate by the Senate committee?

Mr. DOLLIVER. In reply to the Senator from Illinois, I will say that at the beginning of the session the committee, by resolution, requested the Interstate Commerce Commission to send us a bill containing what in their opinion would cover the points which we desired to amend in the existing interstate-commerce law, and this section, which the Senator from New Jersey has offered was section 2 of that Interstate Commerce Commission bill. Now, it had a good many departures in language and some departures in substance from the existing law.

So far as I am personally concerned, I did not regard the departures from existing law as of sufficient importance to warrant the committee in abandoning four or five pages of the existing interstate-commerce law, though I did not doubt, and do not now doubt, that the phraseology of the section, as prepared by the Commission, is in many respects an improvement upon section 6 of the existing interstate-commerce act.

Mr. HOPKINS. I should like to know of the Senator from Iowa if at the time this bill was reported he favored the section as reported in the bill over the proposed amendment of the Senator from New Jersey?

Mr. DOLLIVER. At that time I went through a great many anxieties in my devotion to the existing bill, and yet I did it solely because I was impressed with the notion that the fewer changes that were made in a law that had been in existence for twenty years the better on the whole it would be.

Mr. HOPKINS. I should like the Iowa Senator to state what has come over his spirit to cause him this morning to advise the Senate to abandon the section that was reported by the committee and to adopt a section that was prepared by the Commission?

Mr. DOLLIVER. In reply I will say that the Commission has sent here a half dozen or more amendments. I endeavored at the time to secure the insertion in the bill of some of those which the Commission regarded as important. But the language was difficult to readjust to the new provisions, and the Commission have taken the view that on the whole the new draft of the entire section which they have agreed upon after very laborious consideration is superior to the old law, and since the matter concerns entirely the administration of the law I am not disposed to hold a controversy with the Commission as to the language. Now, the old proviso—

Mr. SPOONER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Wisconsin?

Mr. DOLLIVER. Certainly.

Mr. SPOONER. I should like to inquire of the Senator from Iowa what change, if he is able to state it, the amendment makes in the text of the bill which it is intended to supplant?

Mr. DOLLIVER. That would be a very difficult matter to state, as the changes are very numerous.

Mr. SPOONER. I am speaking of essential changes.

Mr. DOLLIVER. The essential change in the old law, which is provided in the pending bill, is in the proviso which gives to the Commission a discretion to suspend and set aside the provisions of the law in respect to the publication of rates—

Mr. ALDRICH. And the notice.

Mr. KEAN. And the notice.

Mr. DOLLIVER. And the notice in connection therewith.

Mr. BEVERIDGE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Indiana?

Mr. DOLLIVER. Certainly.

Mr. BEVERIDGE. I should like to ask the Senator whether the amendment proposed by the Senator from New Jersey was carefully considered by the committee and rejected for the section which the committee reported to the Senate?

Mr. DOLLIVER. I am bound to say that the committee did not bend very much intellectual energy to that subject at the time.

Mr. BEVERIDGE. I am bound to say I did not hear the Senator's answer.

Mr. DOLLIVER. Owing to the peculiar situation of the committee, these details did not receive very profound consideration.

Mr. BEVERIDGE. Of course these details involve just five pages of the bill.

Mr. KEAN. I will say to the Senator from Indiana that they are very carefully drawn.

Mr. DOLLIVER. The substance—

Mr. BEVERIDGE. If I may be permitted, the Senator from New Jersey injected the remark that they were very carefully drawn. I ask the Senator from New Jersey, Which was carefully drawn? The provision which the committee reported, or the provision which he now offers as an amendment?

Mr. DOLLIVER. Both.

Mr. KEAN. The one I offer.

Mr. BEVERIDGE. Which was the more carefully drawn?

Mr. KEAN. I can not answer for the bill before the Senate, because I had no part in its preparation.

Mr. BEVERIDGE. If the one you now offer was the more carefully drawn, why did not the committee report it?

Mr. DOLLIVER. This is not a controversy between the committee and the Interstate Commerce Commission. It is a controversy between the law of 1887 and those amendments, which have been suggested by the Commission in order to make the law more workable.

Mr. TELLER. Mr. President, we have been discussing this bill, more or less, for the last three months. It has been understood pretty generally, whether on authoritative information or not I do not know, that the Commission was largely responsible for this bill. Whether that is true or not I do not know. I want to enter a general protest against this method of doing business. On yesterday there came in a material amendment, and I will venture to say nobody on the floor is able to state what it means. We know it changes the original bill, or else there is no necessity for the amendment. The Senator from New Jersey [Mr. KEAN], who offered it and whose name it bears, I understand does not attempt to explain it. The Senator from Iowa [Mr. DOLLIVER], who had this bill largely in his keeping, does not know what it is.

Mr. DOLLIVER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Iowa?

Mr. TELLER. Certainly.

Mr. DOLLIVER. This section has been on the statute books for twenty years, and there is no more reason why I should know what it contains than there is that the Senator from Colorado should understand it.

Mr. TELLER. I am not talking about section 6. I am talking about this new amendment. I know what is in section 6.

Mr. DOLLIVER. Then the Senator is the man to point out to the honorable Senator from Georgia what the difference is between that and the amendment.

Mr. TELLER. But the Senator was not able to tell the Senator from Georgia what the difference was. Now, before I vote for any measure I want to know what it means.

Mr. SPOONER. What changes it makes in the law.

Mr. TELLER. I want to know what changes it makes in the law, if that is the law we are proposing to reenact. The Senator who has the bill in charge, I think, admits that he does not know what the changes are.

Mr. TILLMAN. I sent to the desk a memorandum which explains exactly what is to be done, and the changes, and the reasons for them. The Senator from Colorado did not listen, or he would know. I can send it to the desk and have it read again.

Mr. TELLER. I do not depend on a proposition read from the desk.

Mr. FORAKER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Ohio?

Mr. TELLER. Certainly.

Mr. FORAKER. I hope the Senator will allow the communication to be read again.

Mr. TELLER. I am willing that it shall be read, but my method in dealing with these subjects is to take the bill and read it myself. I confess my inability to get a proper idea of a bill read from the desk and the desk alone. I do not believe any other Senator can, either.

Mr. President, after three months, when we had supposed that the sixth section which was in the bill was what was proposed, here comes a change. I do not know whether it is a material change or not. I do not know whether it is better than the original bill. I am not one of those who believe it to be my duty here as a Senator to take the word of somebody outside for it. If you are going to let the Commission make this bill, send it to the Commission and let them make it, and then adopt it. Mr. President, it is a vicious and unheard-of system of doing business. Here it came yesterday for the first time. Nobody has been able to see it or to know what it was until this morning. Then it is taken up. I understand it is to be railroaded through and put in the bill, and we will find out later some time whether it makes any change.

I suppose it is in the power of the Senate to vote this amendment in now. But I do not believe it is in the power of the Senator who has the bill in charge to accept it and prevent me from having an opportunity to vote against it if I see fit. I do not know whether I want to vote against it.

Mr. TILLMAN. The Senator from South Carolina has not attempted anything of the kind.

Mr. TELLER. I know he has not. I do not know that I have any objection to it. I am not in the habit, and I do not intend to be driven into it, either, of accepting a material change in a bill because somebody outside, who is not charged with the responsibility I am, concludes that it is better than that which we had before us for fully three months. It may be better, but decent legislation requires that we should have time to understand it and look into it. The Senator says he has had something read here. He can have it read again if he wants, but I shall not be able myself to form an opinion upon this subject until I can take the two propositions—what is in the bill now and this amendment—and compare them. I am not willing, I repeat, to submit to the Commission the making of this bill. The people of this country do not expect us to submit to the Commission the making of this bill. We are expected to make it here, with the assistance of the other body. If we are going to abandon our province of legislation here, either because it will be easier or pleasanter or because we are afraid we can not do it ourselves, let us be honest about it and send it to the Commission and wait until the Commission shall determine what we ought to do.

Mr. LODGE. The Senator from South Carolina started to perfect this section, which obviously needs a great many amendments, by offering a series of amendments. Then one amendment was offered, a well-drawn substitute, which would have saved the Senate the trouble of going through all those amendments, and the Senator from South Carolina, in conduct of the bill, very wisely said he would be glad to substitute a single draft, making all the changes and perfecting it, instead of taking the time of the Senate in going through it line by line and making a series of small but necessary changes in the wording. It seems to me that that course is in the interest of the expedition of business.

The amendment offered is a well-drawn section in place of one less well drawn and to which it is proposed by the committee to offer a series of amendments. The Senator from South Carolina [Mr. TILLMAN], the Senator from New Jersey [Mr. KEAN], and the Senator from Iowa [Mr. DOLLIVER], all members of the committee, assure us that it is simply substituting a well-prepared and carefully drawn draft for one that confessedly still needs a great deal of amendment.

Mr. SPOONER. Will the Senator from Massachusetts allow me to ask him a question?

Mr. LODGE. Certainly.

Mr. SPOONER. The Senator says it is a well-drawn section, I presume from having read it or having familiarized himself with it, and, therefore, the Senator is the proper Senator to whom I may address the interrogatory to advise the Senate what essential changes it makes in the existing law.

Mr. LODGE. I was going on, if the Senator will allow me, to explain my position. I was going to say that when three Senators on the committee—and, as far as I know, all the members of the committee who have given it attention—assure the Senate that it is an advisable thing to do to take this section drafted by the Interstate Commerce Commission as a proper substitute instead of perfecting it laboriously here by amend-

ments line by line, which would take the whole day, I am sufficiently poor spirited to be ready to accept the say-so of the committee; and I think when they assure us of that we can trust the committee to that extent.

Mr. DANIEL. Mr. President—

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Virginia?

Mr. LODGE. Certainly.

Mr. DANIEL. I should like to ask the Senator from Massachusetts a question. I observe that the proposed section 6, which the amendment says is to be inserted in lieu of section 6 of the bill, relates to subjects other than those embraced in section 6 of the bill. I observe also that there are subjects covered by section 6 of the bill that are omitted in the section 6 which is offered instead thereof. In other words, section 6 readopts section 16a and inserts after section 16 of the interstate-commerce act section 16a, and section 16a provides for an application for a rehearing and rules therefor. The new section offered leaves out all of that, and we do not know, without an explanation at least, where we would be if we adopt this section in lieu of the one which comprehends another matter.

Mr. LODGE. Mr. President, it all appears plain in the memorandum read at the desk. It appears that the clauses referred to that were left out are covered by later insertions.

Mr. DANIEL. There are no later insertions here.

Mr. LODGE. And by other clauses in the bill. I do not profess to be expert about the bill, but it seems to me that if we can not take the statement of the committee on details of this kind we shall occupy a good deal of unnecessary time in the completion of the bill.

Mr. ALDRICH. The Senator from Virginia confuses section 6 of this act with section 6 of the interstate-commerce act, which is proposed to be amended by the second section of this act.

Mr. DANIEL. There is no explanation of that in the amendment. I see nothing to indicate that.

Mr. KEAN. The amendment, I will say to the Senator, is offered to section 2 of the bill, which is to amend section 6 of the interstate-commerce act.

Mr. BEVERIDGE obtained the floor.

Mr. DANIEL. But the offering of this amendment in the proposition named would seem to refer to section 6 of the pending bill.

Mr. KEAN. It is section 6 of the interstate-commerce act.

Mr. LODGE. Not section 6 of this bill, but section 6 of the interstate-commerce act.

The VICE-PRESIDENT. It is at the foot of page 3 of the bill.

Mr. DANIEL. I apprehend what is done here, but there is no statement in the amendment as proposed where it is to come in in this bill.

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from Virginia?

Mr. BEVERIDGE. I yield to the Senator.

Mr. LODGE. I did not know that I had been taken from the floor.

The VICE-PRESIDENT. The Chair understood the Senator from Massachusetts to have yielded.

Mr. LODGE. I yielded to the Senator from Virginia. Then the debate became general and I sat down.

Mr. DANIEL. My only purpose was to find out from the reading of the paper where it would apply.

Mr. LODGE. I will say as preliminary that I do not pretend to be in the least familiar with the details of this section. It refers to section 2 of the bill before us and to section 6 of the interstate-commerce law, not to section 6 of the pending bill. I think that will aid us in understanding it as a preliminary.

So far as I can make out from listening to the memorandum read at the desk and the discussion which has occurred and from reading and comparing the amendments, it seems to me simply to be a redraft in better form of what is before us here in section 2, and that the omitted portions, so far as I have been able to trace them, are covered by later insertions. That is only what I have learned from the committee and from the debate this morning.

Mr. BEVERIDGE. Mr. President, it appears to me that the method of this proposed amendment is seriously important to the Senate. For three months the Senate has been considering this bill and its amendments. For a long time before that the House considered the bill, and the House then sent it to this body. For months the Interstate Commerce Committee held hearings and deliberated upon this measure. And now, after this lapse of time, upon the eve of the passage of what some have termed the most important measure that has been passed since the civil war, a method of amendment is proposed which con-

sists of merely offering, without explaining the differences, an amendment five pages long to take the place of five pages of the bill.

The Senator from Wisconsin [Mr. SPOONER] has addressed every Senator who has advocated this amendment and asked each Senator to point out the changes, and although two of those Senators are members of the committee they have not been able in detail to do so.

It thus appears, Mr. President, that as a method of safety in legislation we had better consume the few additional moments or even the few additional hours that are suggested by the Senator from Massachusetts as being necessary before we adopt an amendment about which the Senate knows nothing. It might be satisfactory to the Senator from Massachusetts, it might be satisfactory to two or three other Senators, and it might, if we understood it, be satisfactory to the entire Senate; but it must be patent to every one that if this method of amendment is adopted any evil and any vice might creep into a law for which every one of us would be responsible before the country, and for the putting in of which we could give no excuse except that we took the word of some person else.

It occurs to me that if the bill was worth pending three months in discussion and many more months in investigating before it was reported, now when it is upon the eve of its passage it is worth taking a few moments to find what is contained in an amendment which involves five pages of the bill.

Mr. LODGE rose.

Mr. BEVERIDGE. I yield to the Senator from Massachusetts.

Mr. LODGE. I was only going to suggest that in the memorandum which has been read at the request of the Senator from South Carolina it seems to me all the changes are explained. I may be wrong, however.

Mr. BEVERIDGE. The Senator from Colorado [Mr. TELLER], who is one of the most observant and closely interested Senators in this body in all matters of practical legislation, said he did not understand from the casual reading the explanation made in that memorandum.

Mr. LODGE. He can send to the desk for it and read it.

Mr. BEVERIDGE. Senators sitting around me have the same experience. I call the attention of the Senator from Massachusetts to the fact that that memorandum assumes to explain merely the detailed amendments which were to be offered by the Senator from South Carolina. It was not read as an explanation of the five pages of amendments which were offered by the Senator from New Jersey.

I call the attention of the Senate to the fact that what we are now confronting is a method of proposed amendment which, after months of debate upon a bill which everybody declares to be exceedingly important, proposes to take out of the bill the committee has reported and that the Senate has been discussing five pages and introduce five other pages. If the mere statement of that proposition does not show the recklessness of such a method, I can not imagine any language that could exhibit the recklessness more plainly.

It may be that the proposed amendment is precisely the thing the Senate wants to adopt. The important thing is that the Senate does not know whether it is the thing it wants to adopt. It is the method, Mr. President, to which I raise objection, and which, it occurs to me, is more important perhaps than the amendment itself. If that method of procedure be allowed in the Senate, then why not introduce a substitute for the entire bill, which might be satisfactory to two or three members of the committee?

Mr. FORAKER. Mr. President, I am a member of the committee that had this bill under consideration and from which there was finally a report made. In view of all that has been said about the responsibility of the committee in that connection, I think it is due to the committee to say that we received from the Interstate Commerce Commission a bill which we understood they had prepared with very great care. It was then taken under consideration, and after it had been considered for a few days, before we had reached any final conclusion with respect to it, when we were in good faith debating its respective provisions, we learned from the newspapers and otherwise that that bill, by the friends of the proposed rate legislation, had been abandoned, and that another bill had been substituted; and in a printed form it was brought before us for our consideration. Later that bill was introduced in the Senate by the Senator from Iowa [Mr. DOLLIVER]. We never had any opportunity in the committee to compare the two bills and take action with respect to them which would show our preference for the one over the other.

The truth is that the whole matter is properly characterized in this memorandum from the Interstate Commerce Commis-

sion—and it is the language I wanted the Senator from Colorado [Mr. TELLER] to have read a few minutes ago, so that every Senator here might have the benefit of it—when they say:

The sixth section of the present law, and as it is proposed to be substantially reenacted with a few amendments in the Hepburn bill, is framed upon no consistent or reasonable theory or plan.

That is exactly true. That is the kind of a bill we have, relating to the most important subject we have had under consideration, as the Senator from Indiana [Mr. BEVERIDGE] a few minutes ago well said, since the civil war. That is the kind of a bill that has been prepared and brought in here, and with respect to which in that committee we could not consider and act upon any amendment whatever. Every amendment was cut off from consideration by the action that was taken by a majority of the committee. All these matters would have been carefully gone over and would have been carefully considered and acted upon.

When the bill was thus brought in, when consideration of the bill was thus denied, when opportunity to act upon it was thus prevented, I do not wonder that now as we come to consider it in the Senate we have this kind of difficulty. It is a serious difficulty. I am not satisfied with the sixth section, either as it is in the bill before the Senate or as it is in the bill as it was originally prepared by the Interstate Commerce Commission; but I am of the opinion, in view of the comments the Interstate Commerce Commissioners have made, that their section as they originally prepared it and sent it to us is a better section than the one in the bill before the Senate. For that reason I am disposed to favor the amendment that has been offered by the Senator from New Jersey as a substitute as he has proposed.

But, Mr. President, except you take up this printed memorandum and read it through from beginning to end, you will have very great difficulty to tell just what the distinctions are. As the Commission point out, one of the most serious difficulties is that this section, which was framed without regard to any reasonable theory or plan—I believe is the language of the Commission—is what we had no opportunity to change. The Senator from Iowa [Mr. DOLLIVER] has suggested to me that it was framed twenty years ago. That is true, but the Senator adopted it in his bill, and we were given no opportunity to point out its defects or to take any action upon it.

Mr. SPOONER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Wisconsin?

Mr. FORAKER. Certainly.

Mr. SPOONER. I wish to inquire of the Senator from Ohio if he will kindly state what change this proposed amendment makes in the law?

Mr. FORAKER. I was about to point out that it is impossible, without taking this memorandum in hand and going through it in a detailed way, to point out what all the changes are. But the first one is that the section as embodied in the bill that is under consideration in the Senate deals differently with individual rates from what it does with joint rates. That is one of the objections the Commission urge against the present bill and in favor of the substitution of the amendment that is offered by the Senator from New Jersey [Mr. KEAN].

Mr. BEVERIDGE. That is the only important change?

Mr. FORAKER. That is a very important change. They point out quite a number of others. I will take the time to read it if that is desired.

Mr. FULTON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Oregon?

Mr. FORAKER. Certainly.

Mr. PETTUS. Mr. President, I desire to ask the Senator from Ohio a question.

Mr. FULTON. I ask the Senator if he does not think it would be wise to have section 6 reprinted with these amendments inserted in italics, and that it be passed over for the present in order that we may compare the proposed amendments with the original text more carefully and understand them?

Mr. FORAKER. When it was suggested a few days ago that we should pass over some proposed amendment, it was ruled, I believe, by the Chair, that under the unanimous-consent agreement under which we are acting no amendment could be passed in that way, but that we must discuss and dispose of each amendment as presented.

Mr. ALDRICH. The amendment could be withdrawn.

Mr. KEAN. I do not care anything specially about this amendment. I want to perfect the bill. If there is any objection to it, I have no hesitancy whatever in withdrawing it, so that we may go on with the bill. I want to get through with the bill.

Mr. ALDRICH. I suggest that all these amendments could be withdrawn and that the amendment of the Senator from New Jersey could then be printed in parallel columns with the section as it stands in the bill. Then we could go on with the reading of the third section of the bill.

Mr. FORAKER. I think it would be better to recommit the whole bill and then have some intelligent consideration of it in committee, for never since I have been a member of this body has a committee been deprived of the right to consider and act upon a bill until now, and I hope it will be a long time before any other committee is ever deprived of that right, because sooner or later, in the Senate or somewhere, you must answer for that sort of proceeding.

Mr. PETTUS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Alabama?

Mr. FORAKER. Certainly.

Mr. PETTUS. Mr. President, I desire to ask on what page of the pending bill is this amendment to commence?

Mr. TILLMAN. On page 3.

Mr. FORAKER. At the bottom of page 3.

Mr. PETTUS. Section 6 of the bill is on page 18.

Mr. TILLMAN. But the trouble is that the Senator is confusing the two 6's. We are on section 2 of the bill, incorporating in it a new section 6 of the interstate-commerce law.

Mr. PETTUS. I understand that, but the amendment does not state which one of the 6's it is to be a substitute for.

Mr. FORAKER. Let me say to the Senator from Alabama that is a very trifling thing to make serious mention of in connection with this bill.

Mr. TILLMAN. Mr. President, before I proceed and try to get something done, I want to comment just briefly upon the implied criticism and more or less, I will not say vituperation of the committee, but it was bordering on it, of the Senator from Ohio. There was such difference of opinion in that committee and such obstructive tactics, as it seemed to me, to do nothing, emanating from those with whom the Senator from Ohio seemed to be in affiliation, that I almost felt that it was a waste of time to go there, because whenever the committee met the demand would be, "Let us read the bill." It would take an hour to read the bill of from 50 to 70 pages, and by the time we got through reading it would be nearly 12 o'clock, and then we would take up something and immediately the Senator would go to make the speech which he afterwards made in the Senate [laughter]; and with one method of doing nothing and another we simply never did do anything.

Mr. FORAKER. Mr. President—

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. TILLMAN. With pleasure.

Mr. FORAKER. Will the Senator allow me to ask him a question? Did the Senator discover any more diversity of opinion in committee than he has discovered in the Senate?

Mr. TILLMAN. Not half as much, for we were only thirteen there and we have about eighty-five here.

Mr. FORAKER. Will not the Senator admit that he was aware we could agree at any time in the committee if he and all the others who agreed with him had agreed with those of us who were acting with myself, as he has stated? [Laughter.]

Mr. TILLMAN. Undoubtedly, if the majority of the committee had agreed to let the Senator from Ohio and the Senator from Rhode Island have their way, as they seem now about to have it, we could have brought in a bill that was entirely satisfactory to all I do not know how much longer ago than we did.

Mr. FORAKER. And if we had agreed with the Senator from South Carolina we could have reported a bill at any time. In other words, Mr. President, what I want to ask the Senator to admit, as I am sure he will, is that our differences were bona fide differences there just as they are here.

Mr. TILLMAN. Undoubtedly.

Mr. FORAKER. And I think every member of the committee, the Senator from South Carolina included, as emphatically as everybody else, was struggling to consider the bill fairly and to make a good bill that we might report to the Senate.

Mr. TILLMAN. Undoubtedly; but we never did consider any of it. We read it and then immediately we began to talk, and that was the end of it.

Mr. FORAKER. Now, one other question—

Mr. ALDRICH. Mr. President, I rise to a question of order.

Mr. FORAKER. Does not the Senator from South Carolina think it would have been well if we had read the bill even oftener than we did?

The VICE-PRESIDENT. The Senator from Rhode Island rises to a question of order.

Mr. ALDRICH. It seems to me this discussion is out of order. It is simply a discussion about what transpired in committee several months ago. It has nothing to do with this question.

Mr. TILLMAN. I did not feel willing to let all the blame appear to rest on the majority that had brought the bill out of committee.

Mr. KEAN. Mr. President, I withdraw the substitute; and I hope we will now go on with the bill.

The VICE-PRESIDENT. The Senator from New Jersey withdraws his proposed amendment.

Mr. TILLMAN. I hope Senators will get the amendments now and let us do something. On page 3, line 24, after the word "shall," I move to insert the words "file with the Commission created by this act and."

The VICE-PRESIDENT. That has been agreed to.

Mr. TILLMAN. Then, in line 25, at the bottom of page 3, after the word "showing," I move to insert the word "all."

The VICE-PRESIDENT. That has been agreed to.

Mr. TILLMAN. Then, on the top of page 4, in the first line, I move to strike out the word "the."

The VICE-PRESIDENT. That has been agreed to.

Mr. TILLMAN. Then, on page 4, lines 1, 2, and 3, I move to strike out the words—

of passengers and property which any such common carrier has established and which are in force at the time upon its route.

And to insert—

between different points on its own route and between points on its own route and points on the route of any other carrier, by railroad or by water, when a through route and joint rate have been established.

Mr. ALDRICH. Mr. President, I object to the words "or by water," because they are put into this section where they ought not to be and in a manner which will raise great doubt about what is their meaning. I suggest that the Senator accept the language which was contained in the amendment suggested by the Senator from New Jersey, which reads as follows:

Between points upon its own route and between points upon its own route and points upon the route of any other carrier when a through route and joint rate have been established by agreement or otherwise.

That accomplishes the same purpose and leave out the words "or by water," which may have a very doubtful meaning in this connection. If the Senator is willing to accept that language I will—

Mr. TILLMAN. I can not accept anything. The Senate must accept it. If we turn only to page 1 and read in section 1, commencing in line 8, we come on that very phraseology:

Or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment.

It seems to me that the language "or by water" would apply to a through route which would be a combination of railroads and steamboats.

Mr. ALDRICH. I am not sure whether it would or not. Therefore I move to amend the amendment of the Senator from South Carolina by substituting the language I have just read.

The VICE-PRESIDENT. The Senator from Rhode Island proposes an amendment to the amendment, which will be read by the Secretary.

The SECRETARY. In lieu of the amendment proposed by the Senator from South Carolina insert:

Between points upon its own route and between points upon its own route and points upon the the routes of any other carrier when a through route and joint rate have been established by agreement or otherwise.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Rhode Island to the amendment of the Senator from South Carolina.

Mr. NELSON. Mr. President, that amendment of the Senator from Rhode Island ought not to be adopted. The object of that part of the bill is to provide that the carrier shall furnish a schedule of its through rates. A part of that through route may be water as well as land, by steamboat as well as rail, and it ought to be included in the bill. There is no reason at all why it should be excluded.

Mr. ALDRICH. I think the Senator from Minnesota is entirely mistaken. The language which I propose to insert is the language of the bill which the Interstate Commerce Commission itself prepared and offered as a substitute for the pending bill. A through route is a through route by rail or water, and it makes no difference whether the language is used or not. My objection is that the words "or by water" would in this connection give an entirely different force and effect to the provision than it would have if the words were left out. I am not sure but that it might apply to all water rates on the Lakes or on the Atlantic seacoast.

Mr. NELSON. If the Senator will allow me to interrupt him, it is intended to cover the case where a route is partly by rail and partly by water.

Mr. ALDRICH. That is a through route within the provisions of the bill.

Mr. NELSON. In that case it ought to be included.

Mr. ALDRICH. Undoubtedly. The Senator and I do not disagree about that. The only objection I make is that it may include something much more.

Mr. NELSON. Oh, no; it can not include anything else.

Mr. ALDRICH. If it will meet the objection of the Senator, I suggest that after the words "or by water" we insert "as provided in section 1 of this act."

Mr. NELSON. The word "water" can do no harm there, and it certainly makes the bill clear and specific.

Mr. ALDRICH. I suggest we put in after the word "water" the words, "as provided in the first section of this act."

Mr. NELSON. What is the object in putting in those words?

Mr. ALDRICH. So that the through routes provided for here shall be the same through routes that are defined in the first section of the act and no others, making the two correspond.

Mr. NELSON. There is no need of that correspondence.

Mr. ALDRICH. I think there is. I think there is very great danger—

Mr. BACON. Mr. President, I desire to ask the Senator from Rhode Island a question. I could not hear distinctly what he said in his colloquy with the Senator from Minnesota. I desire to ask the Senator whether he contends that the bill does not contemplate the regulation of interstate commerce, so far as a part of the shipment may be by water?

Mr. ALDRICH. Where they are under one control and management.

Mr. BACON. But the bill goes further than on page 1.

Mr. ALDRICH. I think not.

Mr. BACON. It says "wholly by railroad, or partly by railroad and partly by water, when both are used under a common control, management, or arrangement, for a continuous carriage or shipment."

Mr. ALDRICH. I think, in the section under consideration, we ought not to go beyond the definition given in section 1.

Mr. BACON. I want to ask the Senator this question: Suppose a shipment from Chicago to New York, by rail from Chicago to Albany, N. Y., and by boat from Albany to New York, which can be, of course, prescribed by the shipper; does the Senator contend that that shipment in its entirety, and the rate under which that shipment was made, would not be under the regulation of the Interstate Commerce Commission under this bill?

Mr. ALDRICH. It would not unless—

Mr. BACON. If it is not, it ought to be.

Mr. ALDRICH. It would not unless "both are used under a common control, management, or arrangement for a continuous carriage or shipment." Otherwise it would not be.

Mr. BACON. If it is not under such regulation, then this bill ought to be corrected. If it is true that the bill as now framed would not reach a case of that kind, then there ought to be an amendment which would make it reach it.

Mr. ALDRICH. Then the structure of the bill would have to be changed.

Mr. BACON. I think not.

Mr. ALDRICH. Certainly, it would have to be.

Mr. BACON. I do not think so, Mr. President. I think that interstate commerce is not limited to railroads by any means, but that by every possible reason it should include any through shipment which extends from State to State, any continuous shipment where a part of it is by water, as well as where the whole of it is by rail. By what possible reasoning could the Senator from Rhode Island contend that whereas the Interstate Commerce Commission should have the right to regulate the rate of shipment in case of complaint between Chicago and New York where it was all by rail they should not have the right to regulate it in case of complaint where part of it was by rail from Chicago to Albany and the remainder, from Albany to New York, by water? Upon what reason would the Senator base the contention that that should not be subject to interstate-commerce regulation?

Mr. ALDRICH. Mr. President, the Congress probably has the same power over interstate commerce by water that it has over interstate commerce by land, but there never has been any attempt on the part of Congress to control, and this bill does not contemplate any control, over interstate commerce by water except upon the conditions named in the first section of the bill—that is:

Where—

I read the language again—

any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment), etc.

If it is the purpose of the Congress or of the Senate to extend over interstate commerce by water the authority of the Interstate Commerce Commission other than as here mentioned, that involves an absolute revolution in this proposed act and would import into it purposes and results which no man has yet contemplated in connection with this legislation.

Mr. NELSON. Will the Senator from Rhode Island allow me to put a question to him?

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Minnesota?

Mr. ALDRICH. Certainly.

Mr. NELSON. I desire to call the attention of the Senator from Rhode Island to the Chesapeake and Ohio case, which has recently been decided by the Supreme Court of the United States.

Mr. ALDRICH. Very well.

Mr. NELSON. In that case the coal was shipped from West Virginia down to tidewater, thence by water up to New Haven by way of Long Island Sound, and from thence by rail farther up in New England. There was a shipment at both ends by rail and in the middle by water. Does the Senator insist that we ought not to control such a shipment?

Mr. ALDRICH. We ought to have controlled it, and we did control it, because the lines were under one common management and control, and it was a continuous shipment. Those shipments undoubtedly came within the provisions of the interstate-commerce act, but there never has been any attempt made, so far as I know, under the provisions of the act, to control shipments by water other than under such conditions. Does the Senator think that a shipment from Duluth, or from one lake port to another, ought to be put under the provisions of this act?

Mr. NELSON. Not if it is a shipment from one lake port to another. That is different. Here is the language:

Between different points on its own route and between points on its own route and points on the route of any other carrier by railroad or by water when a through route and joint rate have been established.

That is the language. It is not where the entire route is by water, but it is where the route is partly by rail and partly by water. Why should not the public—

Mr. ALDRICH. But suppose—

Mr. NELSON. Let me finish. If the shipment is partly by rail and partly by water, why should not the public at large know what that whole rate is from one point to another, even though part of it is by water? Why should they be limited to having a rate published only where the route is partly by rail and not have the rate for the entire distance?

Mr. ALDRICH. Does the Senator think the language of the first section ought to be enlarged or that these conditions ought to be removed, so that independent shipments by water ought to be included in the through routes and put under the control of the Interstate Commerce Commission?

Mr. NELSON. That is not the point—where it is wholly a shipment by water—but where it is a shipment partly by water and partly by rail, where the goods are billed through. Why, in such a case, should not the schedule of rates be published and fixed as to the entire route and not as to only a part of it?

Mr. ALDRICH. But suppose the part by water is by an entirely independent line, and not under one common control and management and not by continuous carriage or shipment?

Mr. NELSON. If the goods are received and billed through as one continuous shipment, I think they should be under the provisions of the bill. Let me give the Senator from Rhode Island an illustration. In the State of Minnesota the steel trust has large iron mines. They have railroads built from those mines down to the coast on Lake Superior. They charge such rates for shipping ore that the independent lines can not compete with them, and when the State of Minnesota undertakes to regulate the rates they come into court and say that they have shipped their ore billed through from their mines to Cleveland and other ports on the lake; that it is, therefore, interstate commerce and the State can not regulate it. Where the carrier comes in and claims immunity from State regulations on the ground that it is interstate traffic, why should not a shipment of that kind be put under Federal regulation and the carrier be required to publish its rates? If the steel trust ships a carload of iron or a lot of iron ore from the Messaba or from the Vermilion mines in Minnesota, and bills it through to Cleveland as one entire shipment, why should not the public be advised as to the entire rate from the mines to Cleveland?

Mr. ALDRICH. I think I shall have to resume the floor, as the question of the Senator from Minnesota is getting to be too-extensive.

Mr. KNOX. Mr. President—

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Pennsylvania?

Mr. ALDRICH. I do.

Mr. KNOX. It seems to me there is likely some confusion here about a very simple proposition. This bill does not propose to make any change in the existing law as to the character of the carrier to which the provisions of the law apply.

I think the Senator from Minnesota [Mr. NELSON] is entirely correct in his interpretation of the act as it stands, and that contains the same language that is used in the pending bill. In my humble judgment, the Senator from Rhode Island [Mr. ALDRICH] is mistaken when he regards the proposition of the Senator from South Carolina [Mr. TILLMAN] as susceptible of being construed so as to expand the application of the act.

Mr. ALDRICH. Mr. President—

Mr. KNOX. Will the Senator permit me to finish the sentence so as to make my thought entirely clear?

Mr. ALDRICH. Certainly.

Mr. KNOX. The proposition of the Senator from South Carolina is simply applied to the posting of the rates; and whatever transportation between the States is covered by the act, such transportation includes transportation by rail and water when it is used as a continuous carriage, whether under common management or ownership or not.

The mere fact that this amendment proposes that the public should have the benefit of notice of these rates does not expand or enlarge the class of carriers to which the act is intended to apply, and does apply, in my opinion.

Mr. ALDRICH. I was not certain about that myself, and I am glad to have the assurance of the Senator from Pennsylvania [Mr. KNOX]. I was only anxious to know that no such construction would be possible as might be inferred from the use of the words "or by water" in a different connection from the way they are used in the first section of the bill; and I withdraw my amendment to the amendment.

Mr. KNOX. It could not possibly apply to water unless water was a part of the continuous carriage and it was under one common management.

The VICE-PRESIDENT. The question is on the amendment of the Senator from South Carolina [Mr. TILLMAN], which has been stated.

The amendment was agreed to.

Mr. TILLMAN. I send the remainder of the amendments which I desire to offer to this section to the desk, and ask that they may be stated.

The VICE-PRESIDENT. The amendments proposed by the Senator from South Carolina [Mr. TILLMAN] will be stated in their order.

The SECRETARY. On page 4, line 7, strike out the word "the" and insert the word "all;" and on page 4, line 7, after the words "terminal charges," insert the words "storage charges."

The amendment was agreed to.

The SECRETARY. On page 4, line 9, after the word "require," insert "all special privileges or facilities granted or allowed."

The amendment was agreed to.

The SECRETARY. On page 4, line 10, strike out the word "of," first occurring in said line, and insert the word "or."

The amendment was agreed to.

The SECRETARY. On page 4, line 11, after the word "charges," insert the following: "or the value of the service rendered to the passenger, shipper, or consignee."

The amendment was agreed to.

The SECRETARY. On page 4, line 13, after the word "be," insert the word "kept."

The amendment was agreed to.

The SECRETARY. On page 4, line 17, after the word "inspected," insert the following:

The provisions of this section shall apply to all traffic, transportation, and facilities defined in section 1 of this act.

The amendment was agreed to.

The SECRETARY. On page 5, line 9, strike out the word "established" and insert the word "filed."

The amendment was agreed to.

The SECRETARY. On page 5, line 11, strike out the words "public notice" and insert "notice to the Commission and to the public published as aforesaid."

The amendment was agreed to.

The SECRETARY. On page 5, strike out lines 23, 24, and 25, and on page 6, lines 1 to 6, inclusive, and insert the following:

The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other

than the one filing the same, shall file with the Commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the Commission, and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

The amendment was agreed to.

The SECRETARY. On page 6, strike out lines 7, 8, 9, 10, and 11, and the words "Commission of all changes made in the same" in line 12.

The amendment was agreed to.

Mr. CULBERSON. I should like to ask the Senator from South Carolina [Mr. TILLMAN] what is the purpose of striking out, on page 6, from lines 7 to 12, inclusive, the following language:

Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same.

Mr. TILLMAN. The purpose is to require the publication of both through and local rates. There are provisions in the law as it is now which separate the two classes of tariffs or of schedules, and the purpose of all these amendments is to compel the publication of through rates and local rates in the same schedule at the depots.

Mr. CULBERSON. Then this requirement will be provided for otherwise in the bill?

Mr. TILLMAN. Yes.

Mr. BACON. Mr. President, I present now, simply that it may be printed, an amendment which I shall offer to the first section of the bill when we return to it, in order to make free from any ambiguity the provision of the law with reference to water carriage in interstate commerce. I will ask that it be read in order that Senators may have it brought to their attention in the Record and can make the insertion themselves in the copies of the bill they have before them.

The VICE-PRESIDENT. The proposed amendment will be stated.

The SECRETARY. In section 1, page 1, line 8, after the word "railroad," it is proposed to insert "or wholly by water;" and also, in section 1, page 1, line 11, to insert the words "by through bills of lading or otherwise."

The VICE-PRESIDENT. The proposed amendment will be printed and lie on the table.

The Secretary will state the next amendment proposed by the Senator from South Carolina [Mr. TILLMAN].

The SECRETARY. In section 2, page 6, line 12, it is proposed to strike out the word "such," at the end of the line.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment proposed by the Senator from South Carolina will be stated.

The SECRETARY. In section 2, page 6, line 13, after the word "carrier," it is proposed to insert the words "subject to this act."

The amendment was agreed to.

The VICE-PRESIDENT. The Secretary will state the next amendment proposed by the Senator from South Carolina.

The SECRETARY. In section 2, page 6, line 16, after the word "party," it is proposed to strike out all of the bill down to and including line 23, on page 7.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. BACON. What is that amendment?

Mr. NELSON. I should like to hear that amendment read again.

The VICE-PRESIDENT. The Secretary will again state the amendment.

The SECRETARY. In section 2, page 6, line 16, after the word "party," it is proposed to strike out all of the bill down to and including line 23 on page 7.

Mr. BACON. Is that an amendment offered by the Senator from South Carolina?

Mr. TILLMAN. Yes.

The VICE-PRESIDENT. It was offered by the Senator from South Carolina.

Mr. TILLMAN. I will explain here that the Interstate Commerce Commission says:

A large portion of the act to regulate commerce and most of the Elkins law was framed to secure adherence to published tariffs. It follows that the provisions of the law respecting the filing and publication of such tariffs should be definite and certain as to joint rates as well as individual rates. There should also be in section 6 a distinct prohibition forbidding a carrier to receive or participate in the transportation affected by the act unless the rates, fares, and charges upon which the same is transported have been filed and published in accordance with the provisions of this section, and that the published rates shall be invariably observed.

This is where the new law and the existing law are in conflict and where there is confusion, and the purpose of the amendment is to try to clarify it.

The VICE-PRESIDENT. The question is on the amendment of the Senator from South Carolina.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment of the Senator from South Carolina will be stated.

The SECRETARY. In section 2, page 8, beginning with line 4, it is proposed to strike out to the end of the section, in line 5, page 9.

Mr. NELSON. I desire to call the attention of the Senate to the fact that we agreed to one amendment there, on page 7, lines 7 to 23.

The VICE-PRESIDENT. That was included in the other amendment.

The SECRETARY. In section 2, page 8, beginning in line 4, it is proposed to strike out the remainder of the section and to insert the following:

No carrier shall, unless otherwise provided by this act, engage or participate in the transportation of passengers or property, as defined in the first section of this act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this section; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

Mr. BACON. Do I understand that is proposed in lieu of the provision found on page 8 of the bill?

Mr. TILLMAN. Yes; in lieu of the part stricken out.

Mr. BACON. From line 4, page 8, to line 5, page 9.

Mr. TILLMAN. Yes; this is a substitution for that.

Mr. BACON. I want to say a word about that. The Senator may be correct. Of course I am open to conviction about it and will gladly conform to his amendment if I am shown to be incorrect; but I do not think, Mr. President, that the provision which is proposed to be inserted in lieu of that which is stricken out relates directly to the matter which is incorporated in the provision which is thus proposed to be stricken out. I will read the words proposed to be stricken out, and I will ask the attention of the Senate to them. After providing for the filing of rates and their publication, etc., beginning in line 4, page 8, is the following language:

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal operating office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commission appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commission, as complainant, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

It will be noted, Mr. President, that that section contains the provisions by which the machinery is provided for the enforcement of the provisions with reference to the publication of schedules. The important fact to which I want to call the attention of the Senate is this, that, while that language is found in the pending bill, it is copied almost word for word from the law as it now stands; and the effect of the adoption of the amendment just proposed by the Senator from South Carolina, if I correctly understand it, will be not simply to change the provisions of the pending bill, but to very materially change the provisions of the existing law.

We have before us a compilation, if I may so term it, which embraces the pending bill and also the existing law as it will be if the pending bill should be passed; in other words, the existing law with the amendments which will be incorporated upon it by the pending bill. By referring to page 36 of that compilation, beginning in the twenty-first line to the end of the twenty-second line on page 37, it will be found that the pending bill is almost identical with the provision in the present law, the only difference being such as indicated by the words stricken out and the words inserted in italics. There are only five changes

made in the existing law by the pending provision which it is proposed to strike out. These five changes are as follows— and I state them to show that they are not material changes: On page 37, line 2, after the word "principal" and before the word "office," the word "operating" is inserted, so that it will read, instead of "principal office," as in the present law, "principal operating office;" in line 9 the word "Commissioners" is stricken out and the word "Commission" is inserted; in line 12 again the word "Commissioners" is stricken out and the word "Commission" inserted; and in line 13 the word "complainants" is stricken out and the word "complainant" is inserted. So that, for all practical purposes, the provision of the pending bill which is found on pages 8 and 9, which it is proposed to strike out, may be said to be verbatim the existing law, the amendments which are proposed to it being altogether formal and not material.

So that we have the proposition here, Mr. President, not simply to strike out of the pending bill this provision, but we have the proposition to strike out of the existing law the provisions which have been incorporated, and have been there for twenty years, by which it is sought to enforce the requirements for the publication and filing of these schedules.

What reason is given for such a radical change as that? I have before me the printed slip, with which the Senator from South Carolina has furnished us, containing the reasons which are suggested why these changes should be made. The reason which is suggested for the striking out of this entire page, found as it is both in the pending bill and in the existing law, is this: I read from page 4 of the printed slip:

On page 8, lines 4 to 9—

It evidently means from line 4, page 8, to line 9, page 9—

are stricken out, because the provision for mandamus is wholly covered on page 24, lines 14 to 22, inclusive.

We will turn to page 24 and find that and see. The reason given why not only this provision of the pending bill, but this most important and vital provision in the existing law shall be stricken out, is that there is found on page 24 of the pending bill, from line 14 to line 22, inclusive, the following language:

That the circuit and district courts of the United States shall have jurisdiction, upon the application of the Attorney-General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of said act to regulate commerce or of any act supplementary thereto or amendatory thereof by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said acts, or any of them.

In other words, the present law which is substantially, in fact almost verbatim, stated on page 8 of the pending bill, goes a great deal further than that, and specifies, in the first place, the jurisdiction in which any of these various suits may be filed for the purpose of compelling compliance with the provisions of this act. If Senators will read them—I will not read them again, as I have already read them in the hearing of the Senate—it will be seen that it is most important that the jurisdiction should be defined, because there are cases in which, in the absence of that specific definition of jurisdiction, it would be gravely doubted where the jurisdiction rested if any jurisdiction could be definitely fixed at all.

But that is not the most important part of it. On page 8, in line 18, it goes on further, now, to say what shall be the penalty or what consequences shall flow from the failure of a railroad company to comply with this provision about the publication and filing of schedules. It says this:

The failure to comply with its requirements—

That is, the requirement where the mandamus is issued—

shall be punishable as and for a contempt—

Which is left out of the provision found on page 24.

Mr. TILLMAN. Will the Senator allow me to ask him a question?

Mr. BACON. Just let me finish this, and I will, with pleasure, and the said Commission, as complainant—

This is all left out—

may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

Now, all of that is omitted.

Mr. TILLMAN. Now, will the Senator permit me?

Mr. BACON. I will, with pleasure.

Mr. TILLMAN. The first thing I want to ask the Senator is whether, if a judge issues a writ of mandamus and the party disobeys it, the judge would not punish it as for contempt?

Mr. BACON. He might do it.

Mr. TILLMAN. Would he not?

Mr. BACON. I presume he would, but there are many—

Mr. TILLMAN. Very well. So to provide that the judge shall punish for contempt is not necessary. The second point in the amendment offered here is that instead of leaving it to the judge to declare by proceedings that the carrier must do so and so, Congress declares it right here; in other words, that the carrier shall not engage in interstate commerce unless it does file its rates.

Mr. BACON. That is stricken out.

Mr. TILLMAN. No indeed.

Mr. BACON. I beg pardon.

Mr. TILLMAN. Just read the substitute for it. The Senator was not paying attention.

Mr. BACON. Yes; I think I am paying attention.

Mr. TILLMAN. Will the Secretary read it again? It is stricken out, but there is nearly as much reinserted.

Mr. BACON. There is nothing here in the part to which the Senator calls my attention, and to which he says I have paid no attention, which provides for the filing by the Commission in the circuit court of a bill asking for a writ of injunction against a common carrier restraining it from engaging in interstate commerce.

Mr. TILLMAN. Nothing whatever, because on page 24 there is a general provision empowering the Commission to apply to the circuit court in the case of disobedience to any part of this act. Why do you want to specify that the court shall punish for one thing when there is a general provision authorizing the court to punish for disobedience to any section?

Mr. BACON. The Senator is mistaken. The provision on page 24 does not in any manner authorize the filing of a bill for the purpose of restraining the common carrier from continuing in interstate commerce so long as it disobeys this requirement of the law.

Mr. TILLMAN. By reason—

Mr. BACON. The Senator will pardon me, that I may finish the sentence. On the contrary, it limits the remedy entirely to that of mandamus. Under the law as it now exists and as it has existed for twenty years, the Commission is authorized to apply either for a mandamus or for a writ of injunction, and that which it is now proposed to strike out limits it to mandamus and entirely repeals that part of it. It not only strikes it out of the pending bill, but repeals existing law in the particular which authorizes the Commission to go into court and file a bill for the purpose of restraining a carrier from continuing in interstate commerce so long as it defiantly refuses to obey the plain mandate of the law.

Mr. FULTON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Oregon?

Mr. BACON. I do.

Mr. FULTON. I will ask the Senator from Georgia if under the bill as it is proposed to be amended, where the provision is made—

The VICE-PRESIDENT. The Chair is obliged to inform the Senator from Georgia that his time has expired.

Mr. FULTON. I should like to have the Senator answer my question.

Mr. TILLMAN (to Mr. FULTON). It is now your time; go on.

Mr. FULTON. I call the attention of the Senator from Georgia to the fact that the proposed amendment makes it unlawful for a carrier that has failed to file its schedules to continue in interstate commerce, and a violation of that provision would subject it to the penalties in other portions of the bill. There would be that remedy. The carrier could be prosecuted criminally if it engaged in carrying interstate commerce after refusing to file its schedules. In addition to that is given the right to proceed against it by mandamus and compel compliance. There are two remedies. Surely they would seem to be sufficient.

Mr. BACON. Well, they may be sufficient in the opinion of the Senator, and I presume they are sufficient in the opinion of the Senator from South Carolina, but still the fact remains as I have stated it. I presume the Senator from Oregon is asking me a question so that I can reply in his time. The fact is, as I have stated it, that under existing law there is the additional security given which authorizes the Commission to file a bill to restrain a railroad from continuing in interstate commerce until they comply with the mandate of the law. For what reason that additional security should be stricken out I am not able to find out from the explanation which has been made by any of the Senators.

Mr. NELSON. Mr. President, I concur in the main in the views expressed by the Senator from Georgia [Mr. BACON]. I think the substitute recommended by the Commission in lieu of what is in the bill and what is in the existing law will dilute the effect of the law and make it less effective. By turning to the original bill you will notice that there are two remedies conferred, one by mandamus and the other by injunction, to compel the carrier to file and publish his schedule of rates. While it is true that the remedy by mandamus may be preserved in the bill on page 24, yet certainly the remedy by injunction is not preserved in clear terms. In the paragraph prepared by the Interstate Commerce Commission and presented by the Senator from South Carolina, there is this language:

No carrier shall, unless otherwise provided by this act, engage or participate in the transportation of passengers or property, as defined in the first section of this act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published, etc.

It provides no remedy. Now, in the provision that is stricken out there is a remedy. I will read a portion of it.

And the said Commission, as complainant, may also apply—

That is, they may first apply by mandamus to compel the railroad to file and publish the rates, and, if they fail to obey, have them adjudged in contempt. Then it adds:

In any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

It goes further than the proposed amendment. The proposed amendment prohibits them from engaging in interstate commerce until they file and publish such rates, but it does not go on and prescribe a clear and efficacious method of enforcing it.

Under the bill as it remains, and that I understand is practically the law, the Interstate Commerce Commission can go into a court of equity and by complaint apply for a writ of injunction and have the carrier restrained from doing interstate-commerce business until it is ready to comply with the order, and that is the most efficacious remedy there is.

So, taking the two propositions together, I think the provisions as they are in the bill are much stronger and more effective and ought to be retained. I say this with all due respect to the opinion of the Interstate Commerce Commission.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from South Carolina. [Putting the question.] By the sound—

Mr. TILLMAN. I dislike to put the Senate to the trouble of calling the roll, but I am very certain that this proposed amendment is merely to strike out surplusage in the act; because with a general remedy provided on page 24, prescribing punishment for any disobedience to this act, there is no use for this provision at this point.

Mr. BACON. Will the Senator permit me to ask him a question?

Mr. TILLMAN. Yes.

The VICE-PRESIDENT. The Chair will state that both Senators have already spoken to this amendment, and under the rule, strictly construed—

Mr. TILLMAN. I call for the yeas and nays.

Mr. TELLER. Let us have the amendment read.

The VICE-PRESIDENT. It will be stated by the Secretary.

The SECRETARY. On page 8, beginning in line 4, strike out the remainder of the section and insert:

No carrier shall, unless otherwise provided by this act, engage or participate in the transportation of passengers or property, as defined in the first section of this act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this section; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

The VICE-PRESIDENT. The question is on agreeing to the amendment just read.

Mr. TELLER. I want to know whether that is a part of the amendment which the Senator from New Jersey [Mr. KEAN] withdrew.

Mr. TILLMAN. If the Senator will permit me, this has no connection with the Senator's amendment. It is an amendment

offered by me, coming from the Interstate Commerce Commission, and explained in the memorandum. The substitute here enacts into law what the Commission would otherwise obtain only by judicial process. We enact into the law what is forbidden; and if you leave the law like it is, you can not keep these people from engaging in interstate commerce without going to the court, whereas under this amendment Congress prohibits a public carrier from engaging in interstate commerce unless it does publish its rates, and then the provision on page 24 provides punishment for any disobedience of the act.

Mr. TELLER. It seems to me to be rather late to make radical changes in the bill. We have been led to suppose that the bill as it came from the House was the bill which we would be called to vote upon, except some amendments which were to be offered to it, not amendments in the way of emendations from the bill, but additions to the bill. I do not know but that this will make it better. In fact, I think, to tell the honest truth about it, that almost anything would make the original bill better than it is. But at the same time I should like to have this proceeding go on in such a way that we would know what kind of a bill we have got. I suppose when these amendments are adopted, if they are adopted (without anybody knowing what they are or what their effect is), we will have an opportunity in the Senate to continue the debate indefinitely. It seems to me, if we are to go on and add new things we had supposed were settled, we will open the door for absolutely unlimited debate on this subject, and it will take you till next month to get through with this bill. If there is necessity for this class of amendments, I am quite contented that they shall be made, but I should like to know what evil in this bill is to be cured by this class of amendments.

Mr. TILLMAN. I do not want to seem to criticize the Senator, but that has been explained twice, and if he did not hear it because he was out of the Chamber, at lunch or somewhere else, I can not help it.

Mr. TELLER. A man can not stay here all the time, and I think I stay here as many hours as any other Senator on the floor.

Mr. TILLMAN. I will try to explain it, if the Senator will hold the floor. I have been notified that I have consumed my time. I have already explained it twice.

Mr. TELLER. This is an unusual method. It is not the custom to debate a bill for three months, and then at the last moment have these amendments come in without any opportunity to know what they are. It is not unreasonable that a Senator who has given some attention to the bill should like to know why these changes are made, and whether they are necessary to be made. He might inquire, I think properly, why they were not made thirty or sixty days ago. Now, I will hear any suggestion the Senator from South Carolina wishes to make.

Mr. TILLMAN. The Senator has already been informed that this bill was not considered in committee at all. While it was in committee it was never considered with any view to amendment or change, and all the debate we have had in the Senate has been largely on the court-review proposition and the proposition to prohibit the issuance of injunctions suspending the Commission rates. We have not discussed the balance of the bill at all in the Senate, and we never discussed it in the committee.

Mr. TELLER. I do not mean to criticize the Senator who has this bill in charge. I know the difficulties he has had presented to him. I know there was some difference in committee, and that the bill came to us from the committee without any change recommended by the committee.

For myself I want to say now, because I may not have another chance to say it, in my opinion, it is an exceedingly bungling bill from beginning to end. It seems to me it might have been changed in committee, and it also seems to me it might have been changed in the Senate within the last three months. I think it needs some change. I was led to suppose from the silence in reference to some of these amendments at least that they had been settled.

It is not the usual method of dealing with a subject. We repeat in this bill the law that now exists, and then make changes in it. I do not want to make any disturbance or delay anything, but I shall reserve the right to go and get lunch and not be criticised because I did not hear what the Senator from South Carolina said in my absence.

Mr. BACON. I should like to make a suggestion to the Senator from Colorado.

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Georgia.

Mr. TELLER. I do.

Mr. BACON. I simply want to call his attention to the fact that the particular point at issue here is that the act of 1887

provides that under certain circumstances, where a railroad company fail to file certain schedules, the Commission may go into court to enjoin them from proceeding with interstate business until they comply with the law, and that this amendment strikes that out and at no other place does it insert anything in lieu hereof. This is the point I make.

Mr. TELLER. Then it does not seem to me that it is an improvement on existing law.

Mr. BACON. I am opposed to the amendment for that reason.

Mr. ALDRICH and others. Question!

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from South Carolina.

Mr. DANIEL. Mr. President, before the vote is taken upon the amendment, I should like to understand the theory of it better than I do now. I hope I may be permitted to say that, like the Senator from Colorado, I can not stay on duty in the Capitol more than eight or ten hours without taking my eye off a particular thing. I was out of the Chamber for a few moments, meeting a delegation of my own people who are here to see me upon business that is being considered in a committee, and for that reason I did not hear the explanation which has been offered by the Senator from South Carolina of an amendment which deprives this bill of one of the remedies provided. I hope he or some one else who is behind this amendment will kindly explain it. I believe I have fifteen minutes, and I will be glad, if I can, to yield it for that purpose.

Mr. TILLMAN. Mr. President, I want first to apologize to the Senator from Colorado, if the Senator from Virginia will permit me, for having indicated that it was impossible for me to explain to Senators who kept going in and out and who on returning to the Chamber had missed hearing an explanation. I am not criticising the Senator from Virginia or anybody else. The Senator says he can not remain in the Capitol on duty more than eight or ten hours. It has been my misfortune to have to remain on duty, regardless of my own feelings or anything else, whenever this bill was up, and I have tried to do so.

Mr. DANIEL. I beg leave to say that I have been here whenever the Senator from South Carolina has been, and oftener, too, and I do not wish anything I say to be disparaged by being brought in contact with anybody else. I have no doubt that every Senator is trying to do his duty as best he can.

Mr. TILLMAN. I was trying to apologize to the Senator by saying that I can not explain it to Senators unless they are here. I twice tried to explain it. I will try now for the third time.

Mr. DANIEL. Everyone knows he can not hear when he is not present.

Mr. TILLMAN. The purpose of all these amendments which have been inserted—a good many things have been put in since the Senator went away—is to perfect the language and the structure. The law as it now stands is involved and contradictory, because they dovetailed the act of 1889 and the act of 1887 together. Then the Elkins law has come along and imposed punishments for things that are provided for here. This very provision here about injunction and mandamus, which the Senator will find on page 8, the line proposed to be stricken out, is to compel a carrier to publish his rates, and if he does not publish them the Commission may go into court and, by mandamus or injunction proceedings, prohibit him from entering into interstate commerce.

The amendment which I have offered here, coming from the Interstate Commerce Commission, by an act of Congress provides that a man shall not engage in interstate commerce unless he does publish his tariff. Then the punishment for a disobedience of this provision is to be found on page 24, where the penalty clauses of the entire bill come in, and any obedience to any of its parts is provided for.

If Senators want to provide, in addition to the mandamus proceeding provided on page 24, for injunction proceedings and punishment for contempt, I submit to them they can do it there and preserve the two classes of punishments just as well as to put it in here and then go on over there and put it in again. It is already in over there.

Mr. BACON. Will the Senator permit me to ask him a question?

Mr. TILLMAN. The Senator from Virginia has the floor.

Mr. DANIEL. I give up the floor.

Mr. BACON. Is it not true—

Mr. ALDRICH. Mr. President, I rise to a question of order.

The VICE-PRESIDENT. The Senator from Rhode Island will state his question of order.

Mr. ALDRICH. The construction which is being put upon the rule and understanding is such that Senators make four

or five different speeches upon the same question right along under the guise of asking a question of somebody. The Senator from Georgia has made three or four speeches since I have been in the Chamber.

Mr. BACON. Mr. President—

Mr. ALDRICH. The Senator from South Carolina has certainly made three in the last half hour.

The VICE-PRESIDENT. The Chair is of opinion that the Senator from Georgia has exhausted his rights under the rule.

Mr. BACON. I only want to ask a question and not to make an argument.

Mr. TILLMAN. I have already been taken down. I would be willing to get down and stay down if I could get the bill through. The Senator from Virginia took the floor. When he sat down, that cut me off and it cut off the Senator from Georgia, and nobody has a right to speak unless it is some one who has not spoken on the amendment.

Mr. BACON. I have twice attempted to ask the Senator this question, and it has been objected to by others, and this particular question has never been asked.

The VICE-PRESIDENT. The time of the Senator has expired, under the rule. The question is on agreeing to the amendment of the Senator from South Carolina.

Mr. DANIEL. I ask that it may be again stated.

The VICE-PRESIDENT. The amendment will be again stated.

The Secretary again stated the amendment.

Mr. RAYNER. Mr. President, I think I can explain this matter in a few words. This section cuts out the writ of mandamus, but the writ of mandamus is provided for on page 24. It does not provide any penalties, because the Elkins Act provides the penalties. Now, when we come to page 24 we can incorporate the injunction. That is the proper place for it to be incorporated, because that applies to a violation of any section at all of the act.

Mr. BAILEY. Does not the Senator from Maryland think that when Congress makes a given act unlawful an injunction would lie against it unless expressly forbidden?

Mr. RAYNER. I was just going to say that there is no necessity for providing for a writ of injunction. If the act makes a thing unlawful, of course you can enjoin; but if you have it specifically provided for, the place to provide for it is on page 24, because that provides for a mandamus against any violation, and we can add to it an injunction for any violation, and then you have the penalties of the Elkins Act. So you have the mandamus, you have the injunction, and you have the penalties, and I do not think you want anything more.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from South Carolina [Mr. TILLMAN].

Mr. BACON. With the permission of the Chair, I desire to state that I will be content if the provision is put into the section as the Senator from Maryland indicates.

Mr. RAYNER. I will offer it.

The amendment was agreed to.

Mr. WARREN. I offer the amendment which I send to the desk, to immediately follow the amendment just adopted.

Mr. LONG. I call the attention of the Senator from South Carolina to the fact that he has one other amendment not yet acted upon. The words at the top of page 9 should be stricken out.

The VICE-PRESIDENT. That portion has been stricken out.

Mr. TILLMAN. From the top of the page to the end of the section has been stricken out.

The VICE-PRESIDENT. The amendment proposed by the Senator from Wyoming [Mr. WARREN] will be stated.

The SECRETARY. It is proposed to add at the end of section 2 the following:

That in time of war or threatened war preference and precedence shall, upon the representation of the President of the United States of the need therefor, be given, over all other traffic, to the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic.

Mr. WARREN. I think there can be no objection to the amendment. The War Department regards it as absolutely necessary.

The amendment was agreed to.

Mr. LA FOLLETTE. I offer the amendment which I send to the desk, to come in at the end of section 2.

The VICE-PRESIDENT. The amendment proposed by the junior Senator from Wisconsin will be stated.

The SECRETARY. After the amendment just adopted insert as section 2a:

Sec. 2a. That there be added after section 6 of said act a new section, to be known as section 6a, and to read as follows:

"Sec. 6a. Every person shall be deemed guilty of a misdemeanor who shall, directly or indirectly, do, or cause, procure, or solicit to be done, or assist, aid, or abet in the doing of any of the following acts, namely: Any act of unjust discrimination as defined in this act, any fraudulent act or false representation by which transportation is obtained or attempted to be obtained at less than the lawfully established rate. Said misdemeanors shall be punishable by imprisonment at hard labor not more than five years nor less than one year or by fine not exceeding \$20,000 nor less than \$1,000."

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the junior Senator from Wisconsin, which has just been read.

Mr. LA FOLLETTE. Mr. President, the amendment which I offer imposes the penalty of imprisonment from one to five years for any act of unjust discrimination, as defined in the interstate-commerce act and the Elkins law amendatory thereof. It makes no change in the punishment by fine provided in the Elkins law, which is from one thousand to twenty thousand dollars. My amendment proposes the additional alternative penalty of imprisonment for violations of the law, now punishable by fine only.

It is the experience of mankind that respect for law is in some degree dependent upon the penalties imposed for its violation. The penalty must be severe enough to deter those disposed to violate its provisions from incurring the risk of so doing. It is a matter of small concern to the railroad to pay a fine for lawbreaking when they can exact the money from the public to meet the payment. The railroad official shrinks from serving a term of imprisonment. The testimony taken by the committees of Congress and the reports of the Interstate Commerce Commission bear witness to the fact that the railroad companies of the country undertook very soon after the enactment of the law of 1887 to have stricken out of that law the penalties of imprisonment provided for its violation. The Interstate Commerce Commission appeared from time to time before the committees of Congress and opposed the change. Notwithstanding this, the change was made when the Elkins law was enacted in 1903. Since that time violations of the interstate-commerce law have been punishable by fine only.

As early as 1891 the Interstate Commerce Commission, in opposing the repeal of the penalty of imprisonment, said:

The imposition of criminal penalties upon railway officials, as well as the corporation itself, where such officials participate in a violation of the law is unquestionably a wise and salutary feature of the act. Indeed, in those cases where punishment by imprisonment is prescribed, such punishment can, in the nature of things, be inflicted only on a real individual or natural person, and not on the abstract entity or artificial person, like a corporation.

In 1894, in meeting the arguments of the representatives of the corporations who were endeavoring to secure the abolition of the imprisonment feature of the interstate-commerce act, the Commission said:

In this connection we may properly allude to certain modifications of the penal provisions of the act which are advocated by many railroad managers. It is proposed by them to exempt the officers and employees of carrying corporations from criminal liability for rate cutting and similar offenses, and to impose such liabilities solely upon the corporations themselves. In brief, the argument is that the extreme severity of the present law operates to prevent its enforcement; that railway managers will not give information against their rivals when the consequence might be the imprisonment of individuals with whom their personal relations are friendly and familiar, but that such disclosures would be freely made if they resulted only in the imposition of a fine upon the offending corporations. We are not prepared to indorse this view. Corporations can act only through their officers and agents, and necessarily an offense against business rectitude and public morality must be committed by some individual who has knowledge of the law, and consciously transgresses its provision. The wrongdoing now referred to involves, in our judgment, a high degree of moral turpitude, which should rightfully subject to exposure and punishment the persons who are guilty of it. We believe that the corporations should themselves be indictable, and regard it a mistake of the present statute that they are not, but we also believe that their officers and agents should remain amenable, as they are now, to the penal obligations of the law. This view includes retention of the imprisonment feature in the tenth section.

These were indeed strong reasons for retaining the penalty which the railroads were so eager to have stricken from the law. And the argument of the Commission did prevail for a time, but the railroad managers were insistent and the Elkins law eliminated imprisonment as a penalty.

Mr. President, I anticipate if there be any discussion of this matter at all, it may be asserted, as it has been heretofore in this debate, that the Interstate Commerce Commission and other advocates of additional legislation have given their approval to the Elkins law. It is possible, sir, to quote general indorsement of the Elkins law from the testimony of members of the Interstate Commerce Commission, and from their annual reports to Congress as well. It is not possible to quote from them any specific indorsement of the amendment abolishing the penalty of imprisonment for violations of the law.

As evidence of the fact that repeal of the penalty of imprisonment invites to further violation of the law, I cite the facts

discovered by experts who examined the books of the Wisconsin railroad companies.

The Elkins law was approved on the 19th of February, 1903. Under an act of the legislature of Wisconsin expert accountants were authorized to investigate the books of railroad companies doing business in that State. That investigation began, or was noticed to begin, on the 1st of October, 1903. That was seven months after the Elkins law went into effect. The investigation discloses that the rebates paid by a single company doing business in Wisconsin were as follows:

In January, 1903—I state it only in round numbers—\$37,000; in February, \$57,000; March, \$47,000; April, \$36,000; May, \$25,000; June, \$13,000; July, \$101,000; August, \$32,000; September, \$46,000. The investigation began in October, the payment of rebates for that month fell off to \$9,000, and in November to \$600, and in December to \$2,000. The investigation discloses that one of the railroad companies of that State paid something more than twice as much in rebates to shippers in Wisconsin during the year following the enactment of the Elkins law as they had paid the preceding year.

What was true of Wisconsin is true of other States. The result was inevitable. If the law is to be respected and upheld, those who violate it must be made to suffer such penalties as will cause them to heed and obey its mandates.

If we expect the prohibitions of the interstate-commerce act to be effective, then we should restore imprisonment as a punishment, and I believe increase the term of years imposed as a penalty for its violation.

THE VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Wisconsin [Mr. LA FOLLETTE].

MR. LODGE. Mr. President, before the question is put on this amendment, I desire merely to say that I have an amendment pending which I intend to move at the proper time at the end of the bill, which provides for the restoration of the penal clauses of the original act of 1887, which were repealed in the Elkins law, which I think ought to be restored, and which I think go quite far enough.

MR. STONE. I should like to have the pending amendment read.

THE VICE-PRESIDENT. The amendment of the Senator from Wisconsin will be again read.

MR. LA FOLLETTE. Before it is read, Mr. President, I wish in response to a suggestion, which I think a good one, to incorporate in line 9, after the word "which" and before the word "transportation," the words "interstate and foreign commerce."

THE VICE-PRESIDENT. The Secretary will read the amendment of the Senator from Wisconsin as modified.

THE SECRETARY. After line 5, page 9, insert as a new section to be known as section 2a, to read as follows:

Sec. 2a. That there be added after section 6 of said act a new section, to be known as section 6, and to read as follows:

"Sec. 6a. Every person shall be deemed guilty of a misdemeanor who shall, directly or indirectly, do, or cause, procure, or solicit to be done, or assist, aid, or abet in the doing of any of the following acts, namely: Any act of unjust discrimination as defined in this act, any fraudulent act or false representation by which interstate and foreign commerce transportation is obtained or attempted to be obtained at less than the lawfully established rate. Said misdemeanors shall be punishable by imprisonment at hard labor not more than five years nor less than one year or by fine not exceeding \$20,000 nor less than \$1,000."

MR. LODGE. Mr. President, I desire to make a parliamentary inquiry.

THE VICE-PRESIDENT. The Senator from Massachusetts will state his parliamentary inquiry.

MR. LODGE. If this amendment should be voted down, would it then be in order for me to offer my amendment at the end of the bill, where I have proposed that it should come in as a new section?

THE VICE-PRESIDENT. The Chair understands that the Senator's amendment would be in order at the end of the section should the pending amendment be voted down.

MR. LODGE. My amendment provides for adding a new section. It seemed to me that the proper place for it to come in was at the end of the bill.

THE VICE-PRESIDENT. The Chair understands that the amendment would be in order.

MR. STONE. Mr. President, I should like to inquire of the Senator from Massachusetts what is the number of the amendment to which he refers?

MR. LODGE. It is on page 141 of the pamphlet of amendments.

MR. BEVERIDGE. I suggest that it be read at the desk, so that we can all hear it.

MR. LODGE. I can state it in one moment, if the Senator from Indiana desires me to do so.

MR. STONE. I yield to the Senator from Massachusetts for that purpose.

MR. LODGE. It simply amends the Elkins law in such way as to restore the penal clauses of the act of 1887. The Elkins law repealed the penal clauses of the act of 1887, which provided for imprisonment as well as for fines, and which were enforced some thirteen years. My proposed section simply amends the Elkins Act so as to restore the old clauses.

MR. STONE. Mr. President, I prepared and offered an amendment to the same general effect as that outlined in the statement made by the Senator from Massachusetts [Mr. LODGE]—an amendment to the Elkins law, intending to restore the imprisonment clauses; so that, whatever the phraseology may be, the purpose of the amendment of the Senator from Massachusetts and the one which I have presented differs very slightly, in my opinion.

MR. PRESIDENT. I think I will not say anything now beyond this, that I feel that the imprisonment clauses, the penalty clauses, of the statute ought to be restored. To say that a person violating this specific law can not be convicted is to impeach the capacity and efficiency of the judiciary. I see no reason why a conviction can not be had, and the penalty of imprisonment imposed, if the facts put in evidence sustain the allegations of the indictment; and I have no doubt in my mind that the fear of imprisonment will have a far more restraining influence upon those who are in charge of these great carrying lines and contribute more to the observance of the law than the fear of a mere fine paid out, ultimately at least, of the treasury of the corporation. I believe, Mr. President, that one conviction followed by one imprisonment would afford a deterrent example of infinitely more importance than a dozen convictions followed by a mere fine.

I shall vote to disagree to the amendment now pending, with the intention of voting to restore all the penal clauses of the act of 1887.

MR. BEVERIDGE. Mr. President, for the purpose of letting everyone see the difference in the minds of Senators as disclosed by these amendments for enlarging the penalties, and for the reason stated by the Senator from Missouri [Mr. STONE], I ask that the pending amendment offered by the Senator from Massachusetts [Mr. LODGE] may be stated at the desk. It is very brief, I understand.

MR. LODGE. Mr. President, my amendment does not include the penal clauses. It restores them. It repeals the repealing clause of the Elkins Act.

MR. BEVERIDGE. I mean that.

MR. LODGE. If the Senator desires to know the difference, he should have the original act of 1887 read. I presume the Secretary has it at the desk. It is on pages 7 and 8, section 10 of the act as amended March 2, 1889.

MR. BEVERIDGE. If it comprises as much as two pages, I shall not ask to have it read.

MR. LODGE. It is a long section.

MR. BEVERIDGE. Could the Senator not in a few sentences state the difference between his proposition, the proposition of the Senator from Missouri, and the old law?

MR. LODGE. The old law, as I understand, provided for the imposition of a fine not exceeding \$5,000 or imprisonment in the penitentiary for a term not exceeding two years, or both.

MR. BEVERIDGE. Then I should be very glad to have from the managers of the bill, the Senator from South Carolina [Mr. TILLMAN] and the Senator from Iowa [Mr. DOLLIVER], a statement as to which provision they think preferable.

MR. HOPKINS. They may not favor either.

MR. TILLMAN. Will the Senator from Indiana agree to vote for the one which I favor?

MR. BEVERIDGE. I did not hear what the Senator said.

MR. TILLMAN. If the Senator wants to put it on me to determine, I will ask him if he will vote for the one which I favor?

MR. BEVERIDGE. I will say to the Senator from South Carolina that his opinion would probably be very influential, but not entirely conclusive. Perhaps, however, if joined with the opinion of the Senator from Iowa [Mr. DOLLIVER] it might well be conclusive.

MR. TILLMAN. I shall be glad to get either amendment; but I should prefer this one, because it is shorter and a little harsher.

MR. LA FOLLETTE. Mr. President—

THE VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Wisconsin?

MR. LODGE. Certainly, I yield to the Senator from Wisconsin.

MR. LA FOLLETTE. Just to say this, that the language in which my amendment is framed is the language of the recom-

mendation of the Interstate Commerce Commission, with an amendment which I suggested here a little time ago, excepting as to the amendment increasing the penalty of the act of 1887, as already stated by the Senator from Massachusetts.

Mr. STONE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. LODGE. Certainly.

Mr. STONE. I desire to ask the Senator from Massachusetts in his opinion would it not be best to adopt the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE], and perfect it by adding the provisions of the amendment he offers?

Mr. LODGE. No, Mr. President; I should say not.

Mr. GALLINGER. That would put them in prison twice.

Mr. LODGE. I think we had much better restore the old clauses of the act of 1887, which seem to me quite sufficient to meet the purpose. It is the fact of imprisonment, not the length of the term, that would be effective. I think the old law is amply sufficient, and I think it is necessary for the same reason as stated by the Senator from Missouri [Mr. STONE].

Mr. STONE. If the Senator will permit me a moment in his time, I said that I felt inclined to vote against the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE]; but, upon reflection, I feel rather inclined to vote for it, and then with a view of perfecting it by adding—

Mr. LODGE. I mention this amendment of mine because I wish to say that I shall vote against the amendment of the Senator from Wisconsin, which I think is too extreme and unnecessary. I think the old law which has been in existence, as I have said, for seventeen years is quite sufficient.

It seems to me also I may say, before I take my seat, that the proper place to put this clause is at the end of the bill as a new section. The new section that I have proposed reenacts the provisions of the Elkins law in certain other respects, but repeals the repealing clause and makes all of the offenses subject to the penalties prescribed in section 10 of the act of 1887.

Mr. LA FOLLETTE. Before the Senator from Massachusetts yields the floor will he permit me to ask him a question, as I can not now take the floor in my own right?

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Wisconsin?

Mr. LODGE. Certainly.

Mr. LA FOLLETTE. Mr. President, I think I was misunderstood in stating that the language of my amendment is in all respects the language recommended by the Interstate Commerce Commission. I will say that the penalty which was provided in the amendment which I offered is, so far as the imprisonment is concerned, a severer penalty than that suggested by the Interstate Commerce Commission in its recommendation of 1887. The fine recommended by the Interstate Commerce Commission the last time they submitted a recommendation upon this specific paragraph was only \$5,000. Since that time the Elkins law has increased the fine to \$20,000 as the maximum limit. Therefore, and for that reason, I have incorporated in this amendment the same fine that is provided in the Elkins law, but adopted an imprisonment penalty which I believe would be severe enough to command the respect of the railroad companies themselves.

The VICE-PRESIDENT. Before the Chair puts the question, he will say that under the Chair's interpretation of the unanimous-consent agreement a Senator can not speak in the time of another Senator if he has already occupied the floor in his own right.

The question is—

Mr. LA FOLLETTE. I shall be glad to withdraw my remarks, Mr. President. I ask for the yeas and nays.

Mr. BRANDEGEE. Mr. President, is the amendment open to amendment?

The VICE-PRESIDENT. It is open to amendment.

Mr. BRANDEGEE. Then, I move, in line 5 of the amendment, after the word "indirectly," to insert the word "willfully."

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. After the word "indirectly," in line 5, it is proposed to insert the word "willfully;" so as to read:

SEC. 6a. Every person shall be deemed guilty of a misdemeanor who shall, directly or indirectly, willfully do, or cause, procure, or solicit to be done, etc.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Connecticut [Mr. BRANDEGEE] to the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE].

The amendment to the amendment was agreed to.

Mr. DOLLIVER. Mr. President, I do not wish this question

to go to a vote without a brief statement. It comes before the Senate somewhat in the shape of a criticism against the legislation of 1903, and I think it is due to the Senate and to the House of Representatives to say that there were before Congress at that time very good reasons for a modification of the penal provisions of the interstate-commerce act.

It is all very well to talk about the severity of these penalties, but the naked and very instructive fact is that from 1887 to 1903 the severity of these penalties had not resulted in the conviction or incarceration of anybody for a violation of this law, and unless I am greatly out of the way the impression was made upon Congress in 1903 that the difficulty of discovering these offenses, all of them secret in their character, was so greatly increased by these severe penalties that, in the opinion of wise and good people, the law would be made more effective if the penalties were abandoned and the prosecution maintained for the imposition of fines on the corporation offending.

I think it also ought to be said in explanation of the action of Congress that, for the first time in the history of our interstate-commerce legislation—since 1903—the Government, by its criminal prosecutions, has succeeded in making any impression upon the secret criminal practices of the railway.

Mr. LA FOLLETTE. May I ask the Senator from Iowa a question?

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Wisconsin?

Mr. DOLLIVER. Certainly.

Mr. LA FOLLETTE. Is the Senator aware of the fact, I should like to inquire, that the Federal judge in whose court the Burlington Railway Company was convicted a week or two ago, in imposing a penalty of only a fine said—

Mr. DOLLIVER. Mr. President, I will say that I saw that statement in the newspapers.

Mr. LA FOLLETTE. The statement was that if there was a provision for imprisonment in the penitentiary, much more in the way of insuring obedience to the law might be accomplished.

Mr. DOLLIVER. I saw that, and I am not out of sympathy with the proposition the Senator has presented.

I have already suggested to my colleagues here that I will not hesitate to vote for this amendment, but I regret that it has been presented in the form of a criticism of what Congress has done.

It is also a mistake to say that the criminal provisions of the statute have been entirely eliminated. All of these offenses are in the nature of conspiracies to violate the law, and the indictments which have been found by the grand jury in New York against the trunk lines in connection with the sugar-trust rebates have taken the form of indictments for conspiracy to violate the law, which does carry the penalty of imprisonment as well as fine.

I think the most amazing fact in connection with our railway experience has been the utter indifference to these provisions of the law by the managers of these great properties. Only a year ago one of the most important and influential and, I will add, one of the most reputable railway presidents in the country told me that it was ridiculous to expect the railroads to obey the law on the subject of rebates; and his remark, intended partly as a jest, aroused my indignation. My theory is that the enforcement of these laws does not depend altogether upon penalties, whether fine or imprison. The enforcement of these laws and the obedience of railway managers to the requirements of these acts of Congress rest largely in an aroused public opinion throughout the United States that shall bring these great representatives of property interests to that same respect for the statutes that ordinary people have in the United States.

I have not risen, therefore, to object to the restoration of these penalties, but simply to say a word in explanation of the course which Congress has taken from time to time in the matter and to emphasize a conviction that has been growing upon me that our market place will be delivered from these crimes when the public opinion of the community comes up to the help of these enactments of Congress.

Mr. LODGE. Before the Senator sits down I should like to ask him one question. Of course most of us took part in the legislation of 1903, and if there is any criticism of my proposition to restore the penal clauses it falls on me quite as much as on any other Senator who voted for it; but is it not true that the Department of Justice believe now that it will be for the advantage of the law and its enforcement to restore the penal clauses?

Mr. DOLLIVER. I understand so. I did not rise for the purpose of disputing that. I think that the close scrutiny of

the books and accounts of railway companies provided for in this bill will tend to reveal these crimes which for twenty years were almost inscrutable to the officers of the law. I shall vote very cheerfully to restore these penalties, because I believe that the most serious feature of the railway situation has been the acquiescence of the public, practically by common consent, in this negligence and contempt of the law.

Mr. BEVERIDGE. Will the Senator state which of the provisions he prefers—the one of the Senator from Wisconsin or the other?

Mr. DOLLIVER. I expect to vote for the one offered by the Senator from Wisconsin because that is vigorous, and I have not seen the other or even heard it read.

Mr. BAILEY. Mr. President, I am somewhat surprised to hear the Senator from Iowa say that the railroad managers of this country have been negligent in observing the law, because that implies that the officers whose duty it is to enforce the law are more culpable than the railroad managers themselves. I have yet to learn that in this country the law is to be enforced by those whose misdeeds it is intended to punish, and when it is admitted that the railroad managers have not obeyed the law, it must be because the officers of the Government have not properly enforced it.

Mr. DOLLIVER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Iowa?

Mr. BAILEY. I do.

Mr. DOLLIVER. I used the word "negligent" as applied to these people inadvertently. Of course I regard the violation of the law as a crime, but the Senator will not deny that the crime is in its very nature such as may elude the eye of the law and go unwhipped through the whole machinery of justice which we have had for the last twenty years.

Mr. BAILEY. Mr. President, I am afraid that the offenses of all rich criminals elude the vigilant eye of the law too often, and I want to see the time come in this country when the richer a man is the more certain it will be that he is punished every time he violates the law of the land—

Mr. DOLLIVER. I have no controversy with the Senator about that.

Mr. BAILEY. Because upon them rests the highest obligation to obey the law. The man of little consequence and of less property owes the law small gratitude for its protection. He feels the Government only when he is summoned to serve upon its juries or called to fight its battles. He never knows what it is to have its officers called to protect his property, and therefore he can be partially excused when he does not respond with alacrity to the call for the protection of the property of other people. But the men who manage the railroads and who conduct the great enterprises of this country owe to the respect for the law and to the obedience of the law the protection of every dollar's worth of property they own; and it is an amazing circumstance to me that those who are the most deeply interested in the supremacy of the law should be the ones who openly admit their repeated and flagrant violations of it.

Restore these penalties, put two of these railroad managers in the penitentiary, and their fate will become a warning to all others. As certain as the swift vengeance of the law shall fall on some the others will desist from their offenses. They love money well enough to take the chances of losing some in the hope of making more, but the rich and prosperous will not take the chance of punishment in the penitentiary. If they can not be brought, out of respect for the law, to obey it, let us put them in the common jail, where they will be powerless to defy it at least for a season.

Mr. LODGE. Mr. President, I move as a substitute for the amendment offered by the Senator from Wisconsin [Mr. LA FOLLETTE] the amendment which I have heretofore submitted. It appears on page 141 of the pamphlet amendments.

The VICE-PRESIDENT. The Senator from Massachusetts moves as a substitute for the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE] as amended, the amendment heretofore submitted by him. The proposed substitute will be stated.

The SECRETARY. In lieu of the amendment as amended it is proposed to insert the following:

Section 1 of an act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, is hereby amended to read as follows:

"That anything done or omitted to be done by a corporation common carrier, subject to the act to regulate commerce and the acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misde-

meanor under said acts or under this act, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons except as such penalties are herein changed. The willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts or strictly to observe such tariffs until changed according to law shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than \$1,000 nor more than \$20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give or to solicit, accept, or receive any rebate, concession, or discrimination in respect of the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereto whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce and the acts amendatory thereto, or whereby any other advantage is given or discrimination is practiced. Every person or corporation who shall offer, grant, or give or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and shall be subject to the fines and penalties prescribed in section 10 of the act to regulate commerce approved February 4, 1887, as amended by the act approved March 2, 1899.

Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

"In construing and enforcing the provisions of this section the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier acting within the scope of his employment shall in every case be also deemed to be the act, omission, or failure of such carrier as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereto, or participates in any rates so filed or published, that rate as against such carrier, its officers, or agents in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act."

Mr. KNOX. Is an amendment to the proposed substitute now in order?

The VICE-PRESIDENT. The Chair understands not.

Mr. FORAKER. Mr. President, very much like the Senator from Iowa [Mr. DOLLIVER], I do not rise to oppose the amendment of this bill so as to provide the penalty of imprisonment for the violation of the interstate-commerce act or any provision of this bill, if we should see fit to make it a law; but I rise, rather, as he did, to point out how it came that in the legislation known as the "Elkins law," enacted February 19, 1903, we abolished this penalty of imprisonment.

The Senator from Wisconsin [Mr. LA FOLLETTE], speaking on that same point a few moments ago, took occasion to say that the Interstate Commerce Commission had never recommended the abolishment of the penalty of imprisonment. Technically and strictly speaking, that is probably true; but on another occasion I called attention to the fact that in the Seventeenth Annual Report of the Interstate Commerce Commission, which was a report published immediately after the Elkins law was enacted, the Commission took occasion, speaking of that law, to use this language, to which I call the attention of Senators.

Speaking of the Elkins law, the Commission, in the first report after the Elkins law was enacted, said:

The amended law has abolished the penalty of imprisonment, and the only punishment now provided is the imposition of fines. As the corporation can not be imprisoned or otherwise punished for misdemeanors than by money penalties, it was deemed expedient that no greater punishment be visited upon the offending officer or agent. The various arguments in favor of this change have been stated in former reports and need not here be repeated.

I submit that the language thus employed by the Commission indicates what the fact was, that the Commission had a distinct and positive relation to the enactment of the Elkins law. The members of that Commission appeared before the Interstate Commerce Committee, as every member of that committee knows, and every member of that committee knows also that every member of the Interstate Commerce Commission who appeared before that committee represented that there should be that change made in the law.

When I spoke here on another occasion and called attention to that fact, I relied upon the expression made by the Commission in this report, that they had repeatedly in former reports expressed the argument in favor of this change. I relied upon that, and made the statement that they had repeatedly, in their former reports, made that recommendation. I have since then looked through their former reports, and I do not find their former recommendations as strong as I had supposed I would find them from what they had said when they appeared before the Interstate Commerce Committee, and from what they said in their report following the enactment of that legislation. But

I call attention to the fact that in the twelfth annual report, at page 19, speaking of the difficulty of enforcing the law, they say:

If it is asked why the criminal remedies are not applied, the answer is that they have been, and without success. The most earnest efforts have been made by the Commission and by prosecuting officers in various parts of the United States to punish infractions of this law. While some fines have been imposed, no substantial effect has been produced. It is plain to the Commission that satisfactory results can not be obtained from this course. The difficulties in the way of securing legal evidence necessary to a conviction are such as to be in most cases insurmountable. The fact may be morally certain, but the name, the date, the amount can not be shown with the particularity and certainty required by the criminal law.

And so they went on at length. In other reports they have repeated substantially the same statement, calling attention to the fact that in criminal prosecutions to enforce the law it was necessary to prove a violation of the law, according to the rules governing in the trial of criminal prosecutions, beyond a reasonable doubt. That is what they had been unable to do. Therefore they appealed to us to make the law one they could enforce and asked us to abolish the provision providing for imprisonment as one of the penalties.

Now, that is exactly how that proposition came before the Interstate Commerce Committee, as every member of the committee knows. So far as I am aware, no railroad had anything whatever to do with it or even any knowledge of it, although they may have been fully informed. I remember that the very same argument that is repeated here in these reports was made before the committee, and the committee, in passing upon the Elkins law and repealing imprisonment as one of the penalties for a violation of the interstate-commerce act, supposed they were acting in the line of the recommendation of the Interstate Commerce Commission; the recommendations of which body the committee was disposed to follow, so far as I can remember the consideration of that legislation in committee.

Whether that was wise or not, I do not intend to stop to discuss. I remember that I doubted the wisdom of the change at the time when it was done. I think every member of that committee would testify that on my part it was with great reluctance that I reached the conclusion that we ought to favor the abolition of imprisonment for a violation of the law. I was one of the very last to yield to it; but I did, out of deference to the opinion of the members of the Interstate Commerce Commission, because I thought I could understand how it was that they would have difficulty in proving beyond a reasonable doubt in that character of cases the offense for which a man might be indicted.

Another argument that was used was that it did not follow that violators of the law would go free from imprisonment, but that by providing, as we did in the Elkins law, that when it was charged that rebates were being given or other practices were being indulged in, in violation of the law, it should be prohibited by injunction; then, if there should be a further such violation, it would be an act in contempt of court, for which the party could be summoned before the court, when he could be tried for contempt without the difficulty attending a criminal trial, where everything must be proved beyond a reasonable doubt, and imprisonment for contempt could be imposed and the result would be far more efficacious and far more expeditious than it was under the other law.

Now, in another report—I can not tell precisely which one, but I read it only a few days ago; I think it must be about the fourteenth or the fifteenth; I have been unable to put my hand on it, but I know it is in one of them—the Interstate Commerce Commission, speaking on this point, in a report to Congress, said while as a Commission they could not recommend that we abolish imprisonment for a violation of the law, yet they would say that if Congress saw fit to do it there was not a member of the Interstate Commerce Commission who would interpose any objection, because their experience had been such that they would not feel warranted in doing so. Almost that precise language was employed by the Commission.

Therefore I say enough appears in this seventeenth annual report, following immediately after the Elkins law, in which they say it was thought expedient thus to legislate because of the argument which had repeatedly before that time been set out in their reports, to justify us in assuming, without any testimony to the contrary, that the Interstate Commerce Commission did favor exactly this change in the law. They not only favored it, as they stated in the report, by fair interpretation, but they favored it positively and aggressively, as every member of the Interstate Commerce Commission knows, by appearing before that committee and making statements to that effect.

Mr. GALLINGER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from New Hampshire?

Mr. FORAKER. Certainly.

Mr. GALLINGER. The Senator from Ohio is giving very interesting testimony on this point. I wish to ask him if the Interstate Commerce Commission, at any time since then, has asked to have the penalty of imprisonment restored?

Mr. FORAKER. Never; never since then; and, as the Senator from Iowa well says, Mr. President, everything that is being done to-day to break up the practices about which complaint is made is being done under the Elkins law, and the very best legislation we can enact here is to broaden and strengthen the Elkins law so as to make it still more effective, as we easily can. If we have in view only the correction of evils, that is the sure way to reach them.

Take the report made by Commissioner Garfield a few days ago. I read it through with care, in so far as we have been favored with it. Assuming that all he says is true, about which I do not know anything except that his facts are disputed to some extent, but, assuming for the sake of the argument that they are all true, there is not one thing pointed out by Mr. Garfield, not one evil mentioned by him, that the bill we now have under consideration will reach or remedy—not one. The evils he complains of all consist, in one form or another, of rebates and discriminations, open and secret, practiced under every kind of guise, in every sort of form that the ingenuity of railroad officials and shippers could suggest. Not one of them can you reach by this legislation, upon which we have spent three or four months of time. On the contrary, there is not one of them that you can not reach in fifteen minutes in a court of equity having competent jurisdiction under the Elkins law. There is no rate or discrimination pointed out by him that you can not reach.

It may be true, and doubtless is, as the Senator from Wisconsin says, that after the Elkins law was enacted it was discovered that rebates were being granted in Wisconsin. I do not know anything about the conditions there. But I do know that if the Elkins law had been enforced by the officials charged with the duty of enforcing it under the law there would not have continued any such condition of things, and there is no law on the statute book that now provides, and this bill if enacted will not provide, any remedy whatever against rebates. The House committee, in their report, said they did not undertake to deal with rebates and they did not undertake to deal with discriminations between shippers. They did not undertake to deal with anything except only excessive rates, the least troublesome and the least burdensome evil there is.

Mr. President, I have here a statement which I took out of a publication called "Freight." It comes to me through the mail, through the kindness of somebody who favored me with it, in which there is from week to week a discussion of this legislation that is proposed and of everything pertaining to the freight business throughout the country. On page 243 of the number I have before me, which is dated New York, May, 1906, I find a statement as to the proceedings under the Elkins law. It gives the number of decisions by the courts sustaining and enforcing that law, and there are quite a number of them, all of them important cases. There was the New Haven Coal case, one of the most important cases decided by the Supreme Court of late years. That was under the Elkins law. There was the Trans-Missouri Freight case, involving a question of discrimination between communities. That was under the Elkins law. There was the case of the packing houses as against the live-stock men—I have forgotten the style of the case—decided by Judge Bethea last January or February. That was under the Elkins law. There was the case a few days ago of the Chicago, Burlington and Quincy road, where that corporation was fined heavily. That was under the Elkins law. There was the case of the Fairmont Coal Company in West Virginia, where the proceeding was by mandamus to compel equal treatment in furnishing cars. That was under the Elkins law. In every one of these cases there was relief instantly at the hands of the court upon application for a restraining order or a writ, which was finally made permanent.

Mr. KNOX. Mr. President—

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Pennsylvania?

Mr. FORAKER. Certainly.

Mr. KNOX. Let me suggest to the Senator from Ohio that the very important case of *Baer v. The Interstate Commerce Commission*, which decided that the anthracite coal combination had to expose its books for examination, was under the Elkins law.

Mr. FORAKER. That was under the Elkins law.

Mr. KEAN. And the tobacco case.

Mr. FORAKER. And the tobacco case, as the Senator from New Jersey suggests, decided only recently. It was under the

Elkins law. So it is that in every instance where the Elkins law has been invoked it has given instant relief, because in every one of these cases upon the filing of a bill a temporary restraining order or writ of mandamus or other order was allowed, which ultimately was made perpetual.

The VICE-PRESIDENT. The time of the Senator from Ohio has expired.

Mr. FORAKER. Allow me time enough to put in the RECORD this list of cases, and at another time I wish to point out and compare the cases decided by the Commission with those decided by the courts, when it will be found that the courts are far more expeditious.

The VICE-PRESIDENT. The cases will be inserted in the RECORD, as requested by the Senator from Ohio, in the absence of objection.

The cases referred to are as follows:

PROCEEDINGS UNDER THE ELKINS LAW.

ST. PAUL, MINN., April 25, 1906.

EDITOR OF FREIGHT.

SIR: Can you advise me the proceedings which have been instituted under the Elkins law?

J. G. WEST.

The proceedings under the Elkins law are as follows: Fifteen injunctions to enjoin departures from published rates, twenty-one indictments for violation of the act, three indictments for conspiracy to violate the act.

The decisions of the courts upon this law are as follows: United States v. Mich. Cent. R. Co., 122 Fed., 544; W. Va. N. R. Co. v. United States, 134 Fed., 198; I. C. C. v. C. and O. R. R. Co., 128 Fed., 69; U. S., —; Mo. Pac. R. R. Co. v. United States, 189 U. S., 274; United States v. A., T. and S. F. R. R. Co., — Fed., — (Judge Phillips). Proceedings in the courts under the Elkins law:

1. DECISIONS.

United States v. Mich. Cent. R. Co., 122 F. R., 544.
W. Va. N. R. Co. v. United States, 134 F. R., 198.
I. C. C. v. C. and O. R. R. Co., 128 F. R., 69. — U. S., —.
Mo. Pac. R. R. Co. v. United States, 189 U. S., 274.
United States v. A., T. and S. F. R. R. Co., — F. R., — (Judge Phillips).

2. INJUNCTIONS TO ENJOIN DEPARTURES FROM RATES.

United States v. C. and N. W. R. R. Co.
United States v. Ill. C. R. R. Co.
United States v. Mich. Cent. R. R. Co. (See decisions.)
United States v. Pa. Co.
United States v. P., C., C. and St. L. R. R. Co.
United States v. L. S. and M. S. R. R. Co.
United States v. Wab. R. R. Co.
United States v. A., T. and S. F. R. R. Co. (See decisions.)
United States v. C., R. I. and P. R. R. Co.
United States v. C., M. and St. P. R. R. Co.
United States v. C. and A. R. R. Co.
United States v. C., G. W. R. R. Co.
United States v. Mo. Pac. R. R. Co.
I. C. C. v. C. and O. R. R. Co. (See decisions.)
United States v. C., B. and Q. R. R. Co.

3. INDICTMENTS.

United States v. Zorn, Williams & Bushfield.
United States v. C., B. and Q. R. R. Co.
United States v. Swift & Co.
United States v. Armour Packing Co.
United States v. C. and A. R. R. Co.
United States v. C., M. and St. P. R. R. Co.
United States v. Cudahy Packing Co.
United States v. Falthorn, Wann, and C. and A. R. R. Co.
United States v. Nelson Morris & Co.
United States v. Kreskap.
United States v. C., B. and Q. R. R. Co. and Miller and Burnham.
United States v. G. N. R. R. Co. and Campbell.
United States v. R. J. Wood & Co.
United States v. Mutual Transit Co. (1).
United States v. Lide & Diver.
United States v. Mutual Transit Co. (2).
United States v. Diver.
United States v. Suffolk and C. R. R. Co. and Bosley.
United States v. Gay Manufacturing Co.
United States v. N. Y. C. and H. R. R. Co.
United States v. Del. and H. Co.

4. INDICTMENTS FOR CONSPIRACY TO VIOLATE.

United States v. Thomas & Taggart.
United States v. Crosby, Thomas & Taggart.
United States v. Swartzchild & Sulzberger Co.

Mr. LODGE. Mr. President, this amendment, which is strictly intended to improve the Elkins law, as appears by its heading, I should like, with the permission of the Senator, to modify. On page 3 (page 143 of the pamphlet), on the suggestion of the Senator from Pennsylvania, which I think a very excellent one, I should like, in line 16, after the word "carrier," to insert the words "or shipper;" and in line 18, after the word "carrier," to insert the words "or shipper."

Mr. STONE. What page?

Mr. LODGE. Page 3 of the amendment; page 143 of the pamphlet.

The VICE-PRESIDENT. The Secretary will state the modifications.

Mr. LODGE. If there is no objection, I should like to have the modifications made.

Mr. DANIEL. While the Senator is on his feet I should like to ask him a question for information.

The VICE-PRESIDENT. Will the Senator from Virginia suspend until the Secretary reports the modifications.

Mr. LODGE. Of course I have a right to modify my amendment.

The VICE-PRESIDENT. The Senator has a right to modify it as he desires.

Mr. DANIEL. I observe some cross references here which would leave the mind in doubt as to exactly what we are doing. For instance, at the bottom of page 2 and the top of page 3 there is reference to other acts for the penalties we are inflicting.

Mr. LODGE. I can not hear the Senator; there is so much noise around me.

Mr. DANIEL. I will try to speak a little louder.

Mr. LODGE. It is not the Senator's fault. It is due to the noise all about.

Mr. DANIEL. At the bottom of page 2 and the top of page 3 there is a declaration of fines and penalties prescribed in section 10 of the act to regulate commerce as amended by the act of March 2, 1889. The point I suggest to the mind of the Senator is, had we not better set forth in this act what fines and penalties we are inflicting, for the reason that some of them seem to be too weak? And then we would have something to amend by the increase of imprisonment or the fine if we desired to do so. But in reenacting an old statute and putting it in with a new one, without a definition of its terms, the Senate are powerless either to know precisely what they are doing or to improve what they may be doing.

Mr. LODGE. The section is printed in the act to regulate commerce.

Mr. DANIEL. I have that before me.

Mr. LODGE. And the supplementary acts.

Mr. DANIEL. I have them before me at this time.

Mr. LODGE. It was to restore section 10. The penalties, as I have stated before, are in every case a term of imprisonment not exceeding two years, or both fine and imprisonment.

Mr. DANIEL. That is a very light penalty—merely two years—for some of these offenses. Some of them involve millions of dollars and the destruction of the business of other people, and a range ought to be given both as to fine and imprisonment, so that the tribunal that has a culprit before it might measure the penalty according to the nature and enormity of the offense. To put the chief offender who may be getting the benefit of millions of dollars by public roguery on the same basis with a minor employee, who may be under his direction, is to obscure or to nullify all distinction in offenders, and to bring down the great criminal to a level with the little one, and to prevent that distribution of justice which proportions penalty to the nature and extent of the offense.

I hardly know how to go at this bill in its present form to offer an amendment to the amendment of the Senator from Massachusetts which would reach this matter.

Now, Mr. President—

Mr. LODGE. If I may have the floor—

The VICE-PRESIDENT. Does the Senator from Massachusetts yield further to the Senator from Virginia?

Mr. LODGE. My time is going so rapidly—

Mr. DANIEL. I hope it may be counted out of my time and not out of the Senator's. I dislike to intrude upon him.

Mr. LODGE. Not at all. I thought the Senator was going into his statement rather more largely than my time admitted.

Mr. DANIEL. I beg the Senator's pardon.

Mr. LODGE. I merely want to say one word in reply. If these penalties are not sufficient, it will be quite possible to amend them in the Senate. To my mind they seem entirely sufficient. The object of the imprisonment is simply to put in a penalty that will have an effect on those who are the offenders. I do not believe a money penalty is efficient with that class of offenders. I think a week's imprisonment is just as valuable as ten years as a deterrent with the people who commit the offense.

Mr. SCOTT. Who are the people?

Mr. LODGE. The law says the directors and managers of the corporation are to be imprisoned, and those in the employ of the corporation who make these contracts. The old law is very specific.

But, Mr. President, it seems to me that this reaches the point we want to reach, and if it is not enough it will be very easy to amend it in the Senate. But it seems to me it is enough, and that is just the distinction between my amendment and that of the Senator from Wisconsin.

Mr. STONE. Mr. President, I desire to direct the attention of the Senator from Massachusetts, and the Senate particularly, to the penalty clause of his amendment. The question in my mind is whether—

Mr. ALDRICH. I do not like to cut off the Senator from Missouri, but we ought to have some enforcement of the rule, Mr. President.

Mr. STONE. In what way am I violating the rule?

Mr. ALDRICH. I thought you had spoken once.

Mr. STONE. Not upon the amendment of the Senator from Massachusetts.

Mr. LODGE. No, he has not. The Senator spoke on the amendment of the Senator from Wisconsin. I do not think he has spoken on mine.

Mr. STONE. I have not.

Mr. ALDRICH. I think the Senator from Massachusetts has spoken at least three times.

Mr. LODGE. I have. I have undoubtedly violated the rule, as we all do.

Mr. STONE. There is a question of doubt as to whether the language of the amendment of the Senator from Massachusetts would in fact restore the imprisonment features of the act of 1887. The language of the amendment proposed by the Senator from Massachusetts is as follows:

Every person or corporation who shall offer, grant, or give or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and shall be subject to the fines and penalties prescribed in section 10 of the "act to regulate commerce," approved February 4, 1887, as amended by the act approved March 2, 1889.

Section 10 of the act of 1887 as amended by the act of March 2, 1889, contains this provision, and it is the imprisonment provision of the section. It is as follows:

Provided, That if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years.

Mr. President, the thing to which I was trying, it seems in vain, to get the attention of the Senator from Massachusetts, but I will get the attention of some other Senators to it, concerns the Elkins Act. The Elkins Act of 1903 provides:

In all convictions occurring after the passage of this act for offenses under said acts to regulate commerce, whether committed before or after the passage of this act, or for offenses under this section, no penalty shall be imposed on the convicted party other than the fine prescribed by law, imprisonment wherever now prescribed as part of the penalty being hereby abolished.

The VICE-PRESIDENT. The Senator from Missouri will suspend until the Senate is in order.

Mr. STONE. Yes, sir; I will be glad to do so. [After a pause.] Is the Senate supposed to be in order now?

The VICE-PRESIDENT. The Senator from Missouri.

Mr. STONE. The act of 1889 amending the act of 1887 did contain an imprisonment penalty. But the act of 1903 repealed it. The Senator from Massachusetts says—

Mr. LODGE. Excuse me. The Senator read the language. It abolished imprisonment. It did not repeal the act.

Mr. STONE. It did not in express terms repeal the act.

Mr. LODGE. That is why I had to reenact the whole law in a new form.

Mr. STONE. But the Senator does not reenact it.

Mr. LODGE. I beg the Senator's pardon. I reenact the Elkins provisions—

Mr. STONE. Oh, yes.

Mr. LODGE. Changing them so as to restore the imprisonment penalty.

Mr. STONE. Yes; the Senator does repeat the first section of the Elkins Act, and adds that anyone who violates it shall be subject to the fine and penalties prescribed by section 10 of the act of 1887. The Elkins Act prescribes a certain fine, from one thousand to twenty thousand dollars, for doing the things which in his amendment the Senator from Massachusetts would have the law provide shall be followed by a fine and such penalties as are prescribed in the act of 1889.

Mr. LODGE. 1899.

Mr. STONE. No; 1889.

Mr. LODGE. I think 1899. It is the act of March, 1899, I think.

Mr. STONE. March 2, 1889; but that is not very important. The amendment of the act was of date March 2, 1889.

Mr. LODGE. Then my print is wrong.

Mr. STONE. Your print is wrong. It should be 1889.

Mr. LODGE. My print is wrong?

Mr. STONE. Yes, sir.

If it be true as a matter of construction that the Elkins law, by the provision "imprisonment wherever now prescribed as part of the penalty being hereby abolished," has the effect in legal intent of repealing the imprisonment clause of the act of 1889, then that part of the act of 1889 ceased to be operative; it was dead; it was no longer a part of section 10 of the act of

1889, and if it was not found in that section, if it was taken out by virtue of the Elkins law, then it can not be put back into the section except by a specific reenactment. If it is not restored by such enactment, then I submit whether the effect of this provision in the amendment proposed by the Senator from Massachusetts, that persons violating this act shall be subject to the penalties prescribed in section 10 of the act of 1887, would subject them to any penalty beyond that of a fine. I think that is exceedingly doubtful.

In drafting the amendment which I have prepared but have not yet submitted, but intend to present, I followed exactly the plan pursued by the Senator from Massachusetts. I took the first section of what is known as the "Elkins law," and provided for its reenactment except as to the penalties. I left the fine as it now appears in the Elkins law remain as it is, and I added this, and that is the only addition to it:

Provided, That any person, or any officer or director of any corporation subject to the provisions of this act, or the act to regulate commerce and the acts amendatory thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall in addition to the fine herein provided for be liable to imprisonment in the penitentiary for a term not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

It seems to me that form would be preferable to the one used by the Senator from Massachusetts.

Mr. LODGE. Where is that? Is it in the pamphlet print of amendments?

Mr. STONE. No; it does not appear in the pamphlet print. I will hand the Senator this copy of it, if he cares to look at it.

The only difference I see in a hasty comparison between that amendment and the one proposed by the Senator from Massachusetts is that the Senator from Massachusetts seeks to restore the imprisonment penalty by providing that the persons convicted shall suffer the penalties prescribed by section 10 of the act of 1887, while in the amendment the Senator has in his hand the imprisonment penalty is specifically stated and set forth. I greatly fear that if the amendment is put in the form proposed by the Senator from Massachusetts we would be left without any imprisonment provision in the law.

Mr. LODGE. It seems to me on an examination of the Senator's amendment, which I had not examined before, that it is identical with mine, except where I have put in the words "every person or corporation who shall offer, grant, or give or solicit," etc., shall be subject to the penalties of section 10 as amended the Senator has put in a proviso not referring at all to section 10, but specifically restoring the penalties.

Mr. STONE. Yes, sir; that is the difference, as I stated.

Mr. LODGE. I have not the slightest objection to accepting the Senator's form instead of mine. There can be no question about it, and it meets exactly the same point, and brings in the same penalty. I would much rather take it, if there can be any doubt about the form of mine.

Mr. STONE. I have had some doubt about the other amendment, and there can be none about this one.

Mr. LODGE. I suppose the Senator will have no objection, when I ask that it be substituted for mine, to my inserting the words "or shipper" after "carrier," which I inserted at the suggestion of the Senator from Pennsylvania [Mr. Knox].

Mr. STONE. Oh, no; I have no objection.

Mr. LODGE. Then, in line 22, on the third page of the amendment of the Senator from Missouri, after the words "common carrier," insert "or shipper," and at the beginning of line 25 insert "or shipper" after "carrier."

The VICE-PRESIDENT. The Secretary will state the modification made by the Senator from Massachusetts.

The SECRETARY. The printed amendment of the Senator from Missouri [Mr. STONE] is now substituted for that of the Senator from Massachusetts [Mr. LODGE]; and on page 3 of the printed amendment, line 22, after the word "carrier," the last word in the line, insert the words "or shipper," and after the word "carrier," in lines 24 and 25, insert the words "or shipper."

Mr. LODGE. I offer the amendment of the Senator from Missouri in lieu of my own, and move its substitution for the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE].

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Massachusetts [Mr. LODGE] as a substitute for the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE].

Several SENATORS. Let it be read.

The VICE-PRESIDENT. The amendment to the amendment will be read.

The Secretary read as follows:

That section 1 of the act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, be amended so as to read as follows:

"That anything done or omitted to be done by a corporation com-

mon carrier subject to the act to regulate commerce and the acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons, except as such penalties are herein changed. The willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts, or strictly to observe such tariffs until changed according to law, shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than \$1,000 nor more than \$20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give, or to solicit, accept, or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereto whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce and the acts amendatory thereto, or whereby any other advantage is given or discrimination is practiced. Every person or corporation who shall offer, grant, or give, or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$1,000 nor more than \$20,000: *Provided*, That any person, or any officer or director of any corporation subject to the provisions of this act, or the act to regulate commerce and the acts amendatory thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall, in addition to the fine herein provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court. Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

"In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereto, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act."

Mr. LA FOLLETTE. If in order, Mr. President, I should like to say a word upon this amendment. I spoke on my own amendment. Have I a right to speak on the amendment to my amendment?

The VICE-PRESIDENT. The Senator from Wisconsin has a right to speak on the amendment of the Senator from Massachusetts to the amendment of the Senator from Wisconsin.

Mr. LA FOLLETTE. As I understand the amendment of the Senator from Massachusetts, it applies to all violations of the law. The amendment which I submitted applies only to cases of unjust discrimination or of false solicitation or of fraudulent representations by which unjust discrimination may be secured. Under the proposed substitute a friendly court might administer an entirely inadequate punishment. The trivial penalty of imprisonment for a day or an hour might be imposed. If a case should happen to be tried before an interested judge, who owned stocks or bonds in the railroad company whose officers or agents were arraigned, the punishment might be trivial and entirely inadequate. This danger is not merely assumed. I recall one case some years ago, brought under the interstate-commerce act, where seven or eight judges were found to be holders of stocks or bonds in the railroad companies interested in the case on trial.

In reply to the observation of the Senator from Ohio [Mr. FORAKER] touching the recommendations of the Interstate Commerce Commission, I assert that no report of the Interstate Commerce Commission can be cited where they have made a distinct recommendation that the penalty of imprisonment should be repealed, or where they approve the Elkins law in that respect.

The Senator from Ohio stated that in so far as he was advised the railroad companies had never recommended the repeal of the penalties of imprisonment. I, of course, am not able to say what has transpired in the committee having charge of this legislation further than is shown by the reports. I find, however, in one of the reports of the Interstate Commerce Commission this language, which would seem to indicate that the railroad companies had been pretty insistent in urging the repeal of the penalty of imprisonment for violations of the interstate-commerce act. This is the language of the Commission in its report:

It is proper to call the attention of Congress to the special insistence of railroad managers and others that the imprisonment feature of the

present law be repealed, and that punishment for all criminal misdemeanors under the act be limited to fine.

Now, after the interstate-commerce act—

Mr. FORAKER. Will the Senator kindly tell from which report he reads?

Mr. LA FOLLETTE. In 1895. I can not give the Senator the number of the report. I can give him the year. It was in the year 1895.

Mr. FORAKER. That was two years before the Maximum Rate case.

Mr. LA FOLLETTE. Oh, that is true. Again the Commission said:

While the Commission must refuse to advise the abolition of imprisonment, its members are not inclined to oppose such legislation should Congress see fit to enact it.

That was the language the Senator was not able to quote exactly. I have it before me, and I will make it a part of the discussion.

Mr. FORAKER. Will the Senator kindly give me the number of the volume?

Mr. LA FOLLETTE. I can not give the number of the volume. I can give you the year the report was issued.

Mr. FORAKER. What is the year?

Mr. LA FOLLETTE. That is 1895 also.

Now, examine the reports after the Elkins law had been enacted. In its analysis of the Elkins law the Commission in the report for 1903 reviews the changes with respect to penalties, but it is *very careful not to commend it in that respect*, although it does commend the law in other respects where it has commendable features.

Again, in its report for 1904, the Commission referred to the Elkins law, but makes *no approval, directly or indirectly, of the repeal of the penalty of imprisonment*, although it does commend the law generally.

I suggested, during the general debate here, that the Interstate Commerce Commission, shortly after the enactment of the Elkins law, did give expression of approval of that law. They were greatly rejoiced to get some legislation making amendments to the interstate-commerce act which they believed would strengthen it in other respects.

But in their latest report, the report for 1905, reference is made to the fact that they have previously given general approval of the Elkins law, and then say that—

Further experience, however, compels us to modify in some degree the hopeful expectations then entertained.

So, Mr. President, I maintain with confidence that there can be found in no report made by the Interstate Commerce Commission an approval of the repeal of the imprisonment penalty of the interstate-commerce act, and I assert that whenever opportunity is given to investigate the books of the railroad companies of this country it will be found that the repeal of the imprisonment features of the Elkins law induced the payment of rebates to a greater extent than ever before.

If Congress desires to insure respect for this law, it should provide a penalty of imprisonment for a term that shall make railroad managers and their employees charged with the conduct of railroad business stand in wholesome fear of the law.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Massachusetts [Mr. LODGE] to the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. LA FOLLETTE. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FORAKER. We are to vote on the amendment of the Senator from Massachusetts?

The VICE-PRESIDENT. On the amendment proposed by the Senator from Massachusetts to the amendment of the Senator from Wisconsin. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Tennessee [Mr. CARMACK]. I am advised that if he were present he would vote "nay," and I am therefore not at liberty to vote. If I were at liberty to vote, I would vote "yea."

The roll call having been concluded, the result was announced—yeas 49, nays 27, as follows:

YEAS—49.

Aldrich	Burrows	Dryden	Hopkins
Alger	Carter	Elkins	Kean
Allee	Clapp	Flint	Kittredge
Ankeny	Clark, Mont.	Foraker	Knox
Beveridge	Crane	Frye	Lodge
Brandeggee	Cullom	Fulton	Long
Bulkeley	Dick	Gamble	McCumber
Burkett	Dillingham	Hansbrough	McEnery
Burnham	Dolliver	Hemenway	Millard

Nelson	Piles	Stone	Wetmore
Nixon	Platt	Sutherland	
Penrose	Scott	Warner	
Perkins	Smoot	Warren	
NAYS—27.			
Bacon	Daniel	Latimer	Pettus
Bailey	Dubois	McCreary	Rayner
Berry	Foster	McLaurin	Simmons
Blackburn	Frazier	Martin	Tallaferro
Clarke, Ark.	Gallinger	Money	Teller
Clay	Gearin	Newlands	Tillman
Culberson	La Follette	Overman	
NOT VOTING—13.			
Allison	Depew	Mallory	Spooner
Burton	Gorman	Morgan	
Carmack	Hale	Patterson	
Clark, Wyo.	Heyburn	Proctor	

So Mr. LODGE's amendment to the amendment was agreed to. The VICE-PRESIDENT. The question recurs on the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE] as amended. [Putting the question.] In the opinion of the Chair the "ayes" have it.

Mr. BACON. I call for the yeas and nays upon the adoption of the amendment of the Senator from Wisconsin as amended. The yeas and nays were ordered.

Mr. MCCREARY. I should like to have the amendment as amended read, Mr. President.

The VICE-PRESIDENT. The Senator from Kentucky [Mr. MCCREARY] asks that the amendment as amended may be read. Several SENATORS. Oh, no!

Mr. MCCREARY. I withdraw the call for the reading of the amendment, Mr. President.

The VICE-PRESIDENT. The Secretary will call the roll. The roll having been called; the result was announced—yeas 73, nays 2, as follows:

YEAS—73.			
Aldrich	Crane	Hemenway	Penrose
Alger	Culberson	Hopkins	Perkins
Allee	Cullom	Kean	Piles
Ankeny	Daniel	Kittredge	Rayner
Bacon	Dick	La Follette	Scott
Bailey	Dillingham	Latimer	Simmons
Berry	Dolliver	Lodge	Smoot
Beveridge	Dryden	Long	Spooner
Blackburn	Dubois	McCreary	Stone
Brandegee	Elkins	McCumber	Sutherland
Bulkeley	Flint	McEnery	Tallaferro
Burkett	Foraker	McLaurin	Teller
Burnham	Foster	Martin	Tillman
Carter	Frazier	Millard	Warner
Clapp	Frye	Money	Warren
Clark, Mont.	Fulton	Nelson	Wetmore
Clark, Wyo.	Gamble	Newlands	
Clarke, Ark.	Gearin	Nixon	
Clay	Hansbrough	Overman	
NAYS—2.			
Gallinger	Pettus		
NOT VOTING—14.			
Allison	Depew	Knox	Platt
Burrows	Gorman	Mallory	Proctor
Burton	Hale	Morgan	
Carmack	Heyburn	Patterson	

So Mr. LA FOLLETTE's amendment as amended was agreed to. Mr. TILLMAN. I move that when the Senate adjourns to-night it be to meet at 10 o'clock to-morrow morning. ["No!" "No!"]

The VICE-PRESIDENT. The Senator from South Carolina moves that when the Senate adjourn to-night it be to meet at 10 o'clock to-morrow morning.

Mr. McLAURIN. I move to amend the motion by making the hour of meeting 9 o'clock to-morrow morning.

Mr. TILLMAN. I accept the amendment, Mr. President. ["No!" "No!"]

Mr. HOPKINS. Mr. President, if the amendment proposed by the Senator from Mississippi [Mr. McLAURIN] to the motion of the Senator from South Carolina is accepted, I move to amend the motion of the Senator from South Carolina by making the hour of meeting 11 o'clock.

Mr. BAILEY. One amendment to the motion is pending.

Mr. HOPKINS. I have moved the amendment on the theory that the Senator from South Carolina accepted the amendment of the Senator from Mississippi.

The VICE-PRESIDENT. Did the Chair understand the Senator from South Carolina to accept the amendment proposed by the Senator from Mississippi?

Mr. TILLMAN. I did.

The VICE-PRESIDENT. Then the amendment of the Senator from Illinois is in order. The question is on the amendment proposed by the Senator from Illinois, that when the Senate adjourn to-day it be to meet at 11 o'clock to-morrow.

The amendment was agreed to.

The VICE-PRESIDENT. The question recurs on the motion of the Senator from South Carolina as amended.

The motion as amended was agreed to.

Mr. KEAN. Let the next section of the bill be read, Mr. President.

The VICE-PRESIDENT. Are there further amendments to section 2? If not, the Secretary will proceed to read the next section.

Mr. McCUMBER. I offer the amendment to section 2 which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. After the amendment just agreed to, at the end of section 2, it is proposed to insert the following:

That section 10 of said act entitled "An act to regulate commerce," approved February 4, 1887, be amended by adding thereto the following:

"Any person, corporation, or company who shall deliver property for interstate transportation to any common carrier subject to the provisions of this act, or for whom, as consignor or consignee, any such carrier shall transport property from one State, Territory, or district of the United States to any other State, Territory, or district of the United States or foreign country, who shall knowingly and wilfully, by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money, or any other valuable consideration, as a rebate or offset against the regular charges for transportation of such property, as fixed by the schedules of rates provided for in this act, shall be deemed guilty of a fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district where such offense was committed, in addition to any other penalties provided by this act, be subjected to a fine equal to three times the sum of money so received or accepted, and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and in the trial for such offense all such rebates or other consideration so received or accepted for a period of six years prior to the commencement of the action may be considered, and the said fine shall be three times the total amount of money or three times the total value of such considerations so received or accepted, as the case may be: *Provided*, That the foregoing penalties shall not apply to rebates or considerations received prior to the passage and approval of this act."

Mr. McCUMBER. Mr. President, it seems to me much more popular in this body to pass any character of drastic legislation aimed at a railway company for accepting a rebate and providing a severe punishment for anyone connected with the railway company from the highest down to the lowest officer for being a party in any way to the acceptance of rebates than it is to touch the great corporations and the great trusts of the country, which have held the railways by the throat and are enforcing such rebates upon them. We have been rather severe with the railway company, which is the victim, but we have been exceedingly careful so far in our legislation not to interfere with the great trusts of the country, which are the ones primarily responsible for practically all the rebates which have been granted.

We had a recommendation by the President of the United States in a message that was sent to us last Friday, in which he mentions but one of the great trusts of the country—the oil trust—and declares that they have benefited in rebates in a single year \$750,000, or about three-quarters of a million dollars every year, and that wholly independent, Mr. President, of the extra amount they get out of the people of New England and other sections of the country, where they have the entire monopoly.

What does a fine of \$5,000 amount to? Suppose you do get one conviction a year. You will then have imposed a penalty of \$5,000 for taking \$750,000. Suppose, on the other hand, you do convict possibly some one connected with the company for assisting or being a party to this rebate; suppose that you are able to reach one case out of a hundred, or one dollar out of a hundred, still in every hundred dollars the company would be ahead \$99.

I seek by this amendment—it is clear, simple, and right to the point—to apply the only remedy which I believe will ever be a successful remedy against the trusts that compel these rebates. Why? If the Standard Oil Company, which for the last year has taken \$750,000 in rebates or special privileges out of the railway companies of the United States, at the end of the year, in an action brought for that specific purpose, could be compelled to pay back two and a quarter million dollars, then I insist that you would have a remedy that they would remember; and if this plan be continued, and, under such an amendment as I have suggested, make it so that at the end of six years you can in a single action compel them to account for all of the rebates that they have taken during those six years—of course not antedating the date of the passage of the pending bill—then they will be constantly upon their guard, knowing continuously that, when one transaction has been completed and one great sum has been received by them, that is not the last of it; that when the year goes by it is not the last of it, but that for six years the Government can go back and compel them to pay back what they have received.

Mr. GALLINGER. Mr. President—

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from New Hampshire?

Mr. McCUMBER. Yes, sir.

Mr. GALLINGER. I ask the Senator if the Sherman anti-trust law and the Elkins law will not reach these corporations if they are guilty of these so-called "crimes?"

Mr. McCUMBER. They will not, and they have not in the past. I have no doubt that public opinion, which has been greatly aroused in the last year, will have a great deterrent effect upon the whole subject of rebates. I do not consider that this law which we will pass adds in this respect one atom of force or effect to the law as it exists to-day.

Mr. GALLINGER. Does the Senator think that the existing laws would be inadequate if they were properly enforced?

Mr. McCUMBER. I think the existing laws, if properly enforced, are adequate as against the railway companies. I think the existing laws are inadequate as against the great corporations. If we have a supplemental act, such as I propose in this amendment, to make the great trusts pay back \$3 for every dollar they get in rebates, taking that in connection with the punishment that is provided against the employees of the railway company, we shall then have a sufficient and effective remedy, because we shall have a remedy against both of them.

Mr. GALLINGER. Just one other suggestion. The Senator called attention to the fact that the President has told the country that the "Standard Oil trust," so called, have robbed the people of \$750,000 in the last year. Is it not proper to put in the RECORD the fact that that corporation have denied that they have been guilty of the crimes charged against them?

Mr. McCUMBER. If a corporation has not been guilty, it certainly will not be affected by this amendment.

Mr. GALLINGER. Of course not.

Mr. McCUMBER. I will read, Mr. President, the words of the President's message which was sent here last Friday. He says:

The facts set forth in this report—

That is, Garfield's report—

The facts set forth in this report are for the most part not disputed. It is only the inferences from them that are disputed, and even in this respect the dispute is practically limited to the question as to whether the transactions are or are not technically legal. The report shows that the Standard Oil Company has benefited enormously up almost to the present moment by secret rates, many of these secret rates being clearly unlawful. This benefit—

That is, the unlawful one—

amounts to at least three-quarters of a million a year. This three-quarters of a million represents the profit that the Standard Oil Company obtains at the expense of the railroads; but of course the ultimate result is that it obtains a much larger profit at the expense of the public.

Mr. President, in the annual message of the President of the United States on the 5th day of December, in speaking of this subject, he recommends specifically that at least twice the amount of all rebates should be recovered in a civil action. In the amendment which I have offered I go further, and place it at three times the amount, and in a criminal action, and this in addition to any little penalty that may be imposed upon the person upon whom the courts will be able to lay their hands.

Mr. President, it makes very little difference to these great trusts—the sugar trust, the oil trust, the steel trust, the meat trust, or any of these other trusts—that there is a law aimed at the individual, whom you will have to catch before you can prosecute, and, if the law applies, convict. It is almost impossible to secure the proper evidence for the conviction of that man. But under the proper law that we will pass now, which provides for a method of keeping the books of the companies, which shall be the same throughout the country, the items prescribed to a certain extent by the Interstate Commerce Commission, a method is supplied by which we can determine what money goes into the coffers of these great corporations—the trusts—from the railroad companies. It will be far less difficult to establish the fact that the Standard Oil Company or any other one of these great corporations has received in rebates three-quarters of a million dollars in a year than it will be to establish, in a criminal case, the time, the place, and the particular person who was instrumental in securing the rebates, because in that respect the evidence must be certain as to the time, the place, and the party, and the facts must be established on all three of those points beyond a reasonable doubt. It is much more difficult to convict an individual against whom an indictment is obtained under such a law than it is to prove that certain sums of money went out of the railway companies' hands and into the hands of the trusts, in addition to what was a legitimate or legal charge.

Mr. President, if we wish to stop rebates—and that is the gist of this whole case, because nine-tenths of our arguments upon the matter of this bill have been upon the question of rebates—if that is what we wish to get at, if we want to have an

effective remedy, we will never have one that will be half so effective as one that will go directly to the company that solicits the rebate and obtains it, and compel it to pay it back three times over. It is no punishment to say to a corporation that receives a rebate, "You shall pay the sum back," because in that case it simply pays back what does not belong to it. It is no punishment to say, "You shall pay back only in those cases in which we can successfully conduct a criminal prosecution against an individual," because that may not amount to more than \$5,000 in a single year. But it is something when you say that we can go back over any number of years and we can, in a single action, compel you to pay back all that you have taken during those years, and that three times over. If we want to eliminate rebates and eliminate them positively, it seems to me we can not do better than to adopt this amendment which goes to the root of these rebates.

Mr. GALLINGER rose.

Mr. McCUMBER. Does the Senator wish to interrupt me?

Mr. GALLINGER. No.

Mr. McCUMBER. Mr. President, I think that is all I desire to say, unless the Senator from New Hampshire wishes to ask me a question.

Mr. GALLINGER. Mr. President, the hysteria of this entire thing has been very clearly developed this afternoon. The interstate-commerce law imposed a penalty of imprisonment as well as a fine. The Interstate Commerce Commission, having in charge the administration of the law, appeared before the Interstate Commerce Committee and recommended that the imprisonment clause should be eliminated from the law, which was done; and from that time to the present the Interstate Commerce Commission, so far as I can learn, have never recommended the reenactment of that penalty in any law that has been before the Congress. But notwithstanding that the Senate has seen proper in its wisdom—I voted against it because I felt entirely justified in doing so—to reenact that provision of the law.

The Senator from North Dakota [Mr. McCUMBER] proposes to inject into this railroad rate bill a provision aimed at the great trusts of the country. The argument made a little time ago was that a penalty of a fine did not deter railroad corporations from committing a crime. But the Senator, in dealing with the great trusts of this country, four or five of which could buy out all of the railroad corporations in the country, if they do not already own them, proposes simply to impose a fine. They are not to be subjected to the penalty of imprisonment, but they are to pay a fine.

Mr. McCUMBER. May I ask the Senator from New Hampshire a question?

Mr. GALLINGER. Certainly.

Mr. McCUMBER. The Senator is undoubtedly reading from the amendment as it was first introduced. The amendment which was read states "in addition to any other penalties provided by this act." So this is in addition to that.

Mr. GALLINGER. In addition to what?

Mr. FLINT. Where can we find the amendment?

Mr. McCUMBER. Let the Secretary read the amendment. I handed it to him. It is in addition to the present penalty.

The VICE-PRESIDENT. The Secretary will again read the amendment.

The SECRETARY. The amendment is to be found in the printed list of amendments, at page 45, but there are some alterations.

Mr. GALLINGER. I accept the Senator's statement that he has some kind of a penalty in addition to a fine.

Mr. McCUMBER. No; I wish the Secretary would read that portion, if the Senator from New Hampshire will allow it.

Mr. GALLINGER. I will be pleased to allow it.

The SECRETARY. On page 2 of the printed amendment, line 7, after the word "committed," insert "in addition to any other penalties by this act."

Mr. GALLINGER. I confess that I do not know exactly what that means, but let it mean what it pleases. We are still face to face with the proposition that we are to have now, in this railroad rate bill, a provision dealing with the great trusts of the country. The Senator really believes, I apprehend, that it will be efficient for doing away entirely with the evil of rebates and discriminations which are already legislated against in the Elkins law. The crudity of this legislation and the dangers attending this kind of legislation have been shown fifty times during the last three days in the fact that Senators, offering amendments, have had them printed, and when they send them up to be acted upon they change them from one to five times; and the Senator from North Dakota, deliberating upon this great topic, as he doubtless did, because this amendment was not incubated in a moment, prepared this amendment which he had printed and which was before us and which we have all

studied in an endeavor to learn its scope and meaning, and to-day he has found it necessary to modify it.

Mr. McCUMBER. When another amendment is put on a bill you often, in order to make your amendment in harmony, find it necessary to make changes. So when the Lodge amendment, which already provided for one character of punishment, was inserted, it was necessary to make the change, so as not to be in conflict with it.

Mr. GALLINGER. Does the Senator think that the penalty in the Lodge amendment will apply to offenses of the character involved in his amendment?

Mr. McCUMBER. It will be in addition to that penalty. It does not affect that penalty at all. That penalty is simply by fine or imprisonment not to exceed two years, if they can convict an individual.

Mr. GALLINGER. Are the fines and penalties cumulative? Are those already imposed in the bill to be added up and this penalty or fine added?

Mr. McCUMBER. I have had sufficient experience in the prosecution of criminal actions to know that we are not liable to have a hundred cases to be tried, though we can prove, perhaps, that there have been a hundred different offenses committed. One trial is generally supposed to cover them all. It has never been customary to have one trial after another, although the offense may have been continuous and each day might be a separate offense. The Senator knows that to be the case, and therefore it was intended to make them pay back every dollar they got out of the company unlawfully and to pay it back three times over, so that it would be a punishment.

Mr. GALLINGER. I am glad that some Senator has come to the relief of the railroads of the country. The Senator from North Dakota claims that this amendment is intended to protect them against crimes that are being committed by other corporations upon those railroad companies. This bill when it gets through the Senate will look like Joseph's coat, but in my great desire to have it acted upon I am not going to spend much time in discussing this or any other amendment. I believe I have not occupied more than fifteen minutes during the entire debate upon this great subject. But it does seem to me that if we are going to pass a bill regulating the railroads of the country and requiring them to give proper service, as they ought to give proper service, it is a mistake to inject all sorts of amendments relating to other subjects into that bill. For that reason I trust—

Mr. McCUMBER. Let me ask the Senator, while he is on his feet, if the subject of rebates is not pertinent to this bill, and that is all this amendment deals with?

Mr. GALLINGER. The bill as it came from the House of Representatives, with the indorsement of that great body and, we were told, with the indorsement of the President of the United States, and as it came to this body, with or without the indorsement of the Committee on Interstate Commerce, does not deal with that subject. I apprehend they thought that as the Elkins law as it stands to-day, or as it could easily be amended, dealt specifically with that question it was not necessary to enter into that in this legislation. That is all I care to say. I shall take pleasure in voting against this amendment, even though I should vote alone.

Mr. ALDRICH. Mr. President, I listened with some attention to the remarks of the Senator from North Dakota [Mr. McCUMBER]. I do not find any of the trusts to which he referred named in the amendment, and I should be afraid that certain farmers in North Dakota, if they should happen to receive a lower rate of freight than some of their neighbors, might be in some danger of prosecution under the terms of this amendment.

Mr. McCUMBER. I would ask the Senator in all candor if he would expect me to mention any special trust in the amendment?

Mr. ALDRICH. The Senator made a speech saying the purpose of the amendment was to destroy certain trusts, and I thought he might apply some language—

Mr. McCUMBER. I did not so state, if I may correct the Senator. It is not to destroy the trusts; it is to prevent the trusts from extorting money from the railways.

Mr. ALDRICH. Is there not any way of exempting the farmers of North Dakota from what might be a very serious danger of injury to them from paying lower freight than some of their neighbors? It seems to me that this is rather drastic legislation in favor of the railroads.

Mr. McCUMBER. I do not see how it is in favor of the railroads. It simply punishes somebody else who acts in conjunction with them and takes these rebates.

Mr. ALDRICH. It seems to me it is very drastic protection to the railroads, but I may be mistaken.

Mr. McCUMBER. If the Senator thinks that is protection, they certainly ought to have that protection.

Mr. SPOONER. Mr. President, I am not concerned about protecting railroad companies against the payment of rebates. The rebate is absolutely indefensible, and if anything is settled it is settled that the practice must be discontinued. I do not think it is necessary at all to deal with it in connection with this bill, for the reason that the House of Representatives has at this session passed a bill, which is now before the Judiciary Committee of the Senate—

Mr. KEAN. I have a copy of it here.

Mr. SPOONER. Let me have it.

Mr. KEAN. It is a good bill.

Mr. SPOONER. The House of Representatives at this session has passed a bill which is before the Judiciary Committee, and which, I think, needs some amendment to make it more efficient, and which I believe will be reported by the committee. It is a bill "To authorize the recovery of the value of unlawful rebates and discriminations, penalty therefor, and for other purposes."

Mr. McCUMBER. May I ask the Senator if the bill has been reported by his committee?

Mr. SPOONER. I think it will be reported at this session of Congress.

Mr. McCUMBER. If the bill is made a law, it will be practically the same as this.

Mr. SPOONER. I think it will be more carefully drawn and more elaborate and better adapted to meet the object which the Senator has in view. It provides for two classes of cases. In the first place, it forfeits to the Government all illegal payments. It provides for the recovery of the amount of the rebate in a class of cases where not willfully accepted, if there be such, and in the other class of cases, which would take all the cases referred to by the Senator from North Dakota, for the recovery, at the suit of the Government of double the amount of the rebate, or sum unlawfully received from the railway company. I do not doubt that the bill will be reported, nor do I doubt that it will meet the approval of this body, and its operation, I think, in connection with the provisions of the rate bill as to the keeping of railway accounts and the examination of railway books and all that will deprive the business men of this country of any great anxiety or inducement to seek rebates; and those who seek a rebate, knowing it to be in violation of the law, are as much deserving of punishment for violating the law as those who give it, and sometimes more so. So I think this subject may be dealt with at this session if the Senator's amendment should not be adopted.

Mr. McCUMBER. It may be dealt with, I will say to the Senator, and it may not. It is practically aimed at the same thing and so as to accomplish the same purpose.

Mr. SPOONER. The House treats the two classes separately, and I think we may as well.

Mr. KEAN. Mr. President, I was going to say to the Senator from Wisconsin that it was my intention to offer this bill as a substitute for the amendment of the Senator from North Dakota. It is a bill I am very heartily in favor of, but since the statement of the Senator from Wisconsin I certainly will not do so, because the Committee on the Judiciary will probably report it at an early day.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from North Dakota. [Putting the question.] In the opinion of the Chair, the "ayes" have it.

Mr. McCUMBER. I call for the yeas and nays.

Mr. CLAY. I understood the Chair to announce that the "ayes" had it.

Mr. McCUMBER. Did the Chair announce it in favor of the "ayes?"

The VICE-PRESIDENT. The Chair did.

Mr. McCUMBER. Then I withdraw the request for the yeas and nays.

Mr. GALLINGER. Let the vote be taken again.

The VICE-PRESIDENT. The vote will again be taken. The question is on agreeing to the amendment proposed by the Senator from North Dakota.

The amendment was agreed to.

Mr. GALLINGER. I move that the Senate proceed to the consideration of executive business.

Mr. KEAN. Let us get down to section 4.

Mr. ALDRICH. Let the next section be read.

Mr. GALLINGER. I have made my motion.

Mr. SPOONER. Mr. President—

The VICE-PRESIDENT. Does the Senator from New Hampshire yield to the Senator from Wisconsin?

Mr. SPOONER. Will the Senator from New Hampshire yield to me that I may submit an amendment to the pending bill?

Mr. GALLINGER. I do.

Mr. SPOONER. I offer an amendment to the pending bill, which I ask to have printed.

The VICE-PRESIDENT. The amendment will be printed and lie on the table.

Mr. GALLINGER. I am appealed to to permit the next section to be read, and I withdraw the motion for that purpose.

The VICE-PRESIDENT. The motion is withdrawn. The Secretary will read.

The Secretary read as follows:

SEC. 3. That section 14 of said act, as amended March 2, 1889, be amended so as to read as follows:

"SEC. 14. That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the Commission, together with its decision, order, or requirement in the premises; and in case damages are awarded such report shall include the findings of fact on which the award is made.

"All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

"The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports."

Mr. GALLINGER. Let the next section be read likewise.

Mr. ALDRICH. Yes; read the next section.

The Secretary read as follows:

SEC. 4. That section 15 of said act be amended so as to read as follows:

"SEC. 15. That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this act, for the transportation of persons or property as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed; and to make an order that the carrier shall cease and desist from such violation, to the extent to which the Commission find the same to exist, and shall not thereafter publish, demand, or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed. Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier, unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction. Whenever the carrier or carriers, in obedience to such order of the Commission or otherwise, shall publish and file joint rates, fares, or charges, and fail to agree among themselves upon the apportionment or division thereof, the Commission may after hearing make a supplemental order prescribing the portion of such joint rate to be received by each carrier party thereto, which order shall take effect as a part of the original order.

"The Commission may also, after hearing on a complaint, establish through routes and joint rates as the maximum to be charged and prescribe the division of such rates as hereinbefore provided, and the terms and conditions under which such through routes shall be operated, when that may be necessary to give effect to any provision of this act, and the carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates, provided no reasonable or satisfactory through route exists.

"If the owner of property transported under this act directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be no more than is just and reasonable, and the Commission may, after hearing on a complaint, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the service so rendered or for the use of the instrumentality so furnished and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders above provided for in this section.

"The foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in the making of an order under the provisions of this act."

Mr. GALLINGER. I renew my motion.

Mr. NELSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from New Hampshire yield to the Senator from Minnesota?

Mr. NELSON. I want to move a short amendment.

Mr. GALLINGER. I think it had better be done to-morrow.

The VICE-PRESIDENT. The Senator from New Hampshire declines to yield.

EXECUTIVE SESSION.

Mr. GALLINGER. I renew the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After three minutes spent in executive session the doors were reopened, and (at 5 o'clock and 58 minutes p. m.) the Senate adjourned until to-morrow, Friday, May 11, 1906, at 11 o'clock a. m.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 10, 1906.

RECEIVERS OF PUBLIC MONEYS.

Sargent S. Morton, of California, to be receiver of public moneys at Oakland, Cal. (temporarily removed from San Francisco by Executive order of April 28, 1906), for the unexpired part of his term of four years from February 4, 1903.

Joshua G. Wood, of Kansas, to be receiver of public moneys at Topeka, Kans.

Walker A. Henry, of Spokane, Wash., to be receiver of public moneys at Waterville, Wash.

Harry F. Nichols, of Ellensburg, Wash., to be receiver of public moneys at North Yakima, Wash.

REGISTERS OF THE LAND OFFICE.

J. J. Payne, of Des Moines, Iowa, to be register of the land office at Des Moines, Iowa.

William F. Haynes, of Coulee City, Wash., to be register of the land office at Waterville, Wash.

Truman G. Daniells, of Alameda, Cal., to be register of the land office at Oakland, Cal. (temporarily removed from San Francisco by Executive order of April 28, 1906).

POSTMASTERS.

OHIO.

George G. Sedgwick to be postmaster at Martins Ferry, in the county of Belmont and State of Ohio.

PENNSYLVANIA.

Alpheus B. Clark to be postmaster at Hastings, in the county of Cambria and State of Pennsylvania.

George H. Moore to be postmaster at Verona, in the county of Allegheny and State of Pennsylvania.

WISCONSIN.

Henry G. Kress to be postmaster at Manitowoc, in the county of Manitowoc and State of Wisconsin.

Frank S. Moore to be postmaster at Lake Geneva, in the county of Walworth and State of Wisconsin.

HOUSE OF REPRESENTATIVES.

THURSDAY, May 10, 1906.

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read, and, on motion of Mr. PAYNE, was approved.

PERSONAL REQUEST.

Mr. BINGHAM requested leave of absence, for ten days, on account of sickness.

Mr. PAYNE. Mr. Speaker, I move that the request be granted.

The motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill.

The question was taken; and on a division (demanded by Mr. WILLIAMS) there were—ayes 112, noes 5.

Mr. WILLIAMS. I make the point of no quorum, Mr. Speaker.

The SPEAKER. The Chair will count. [After counting.] One hundred and ninety-seven Members present; the ayes have it, and the motion is agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. CRUMPACKER in the chair.

Mr. KEIFER. Mr. Chairman, I wish to make a request. It has been my purpose to avail myself of an opportunity to submit some remarks on that part of the naval appropriation bill which provides for the building of a battle ship, but I know now that I will not be able to be present when that part of the bill is reached, and I ask the courtesy of the House to be allowed fifteen minutes to make some remarks on that clause of the bill.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that he may address the committee for fifteen minutes on the subject of the enlargement of the Navy. Is there objection?

There was no objection.

Mr. KEIFER. Mr. Chairman, it has been my purpose to make only a few remarks on that part of this naval appropriation bill which authorizes the building under the direction of the President of the United States, through the Navy Depart-